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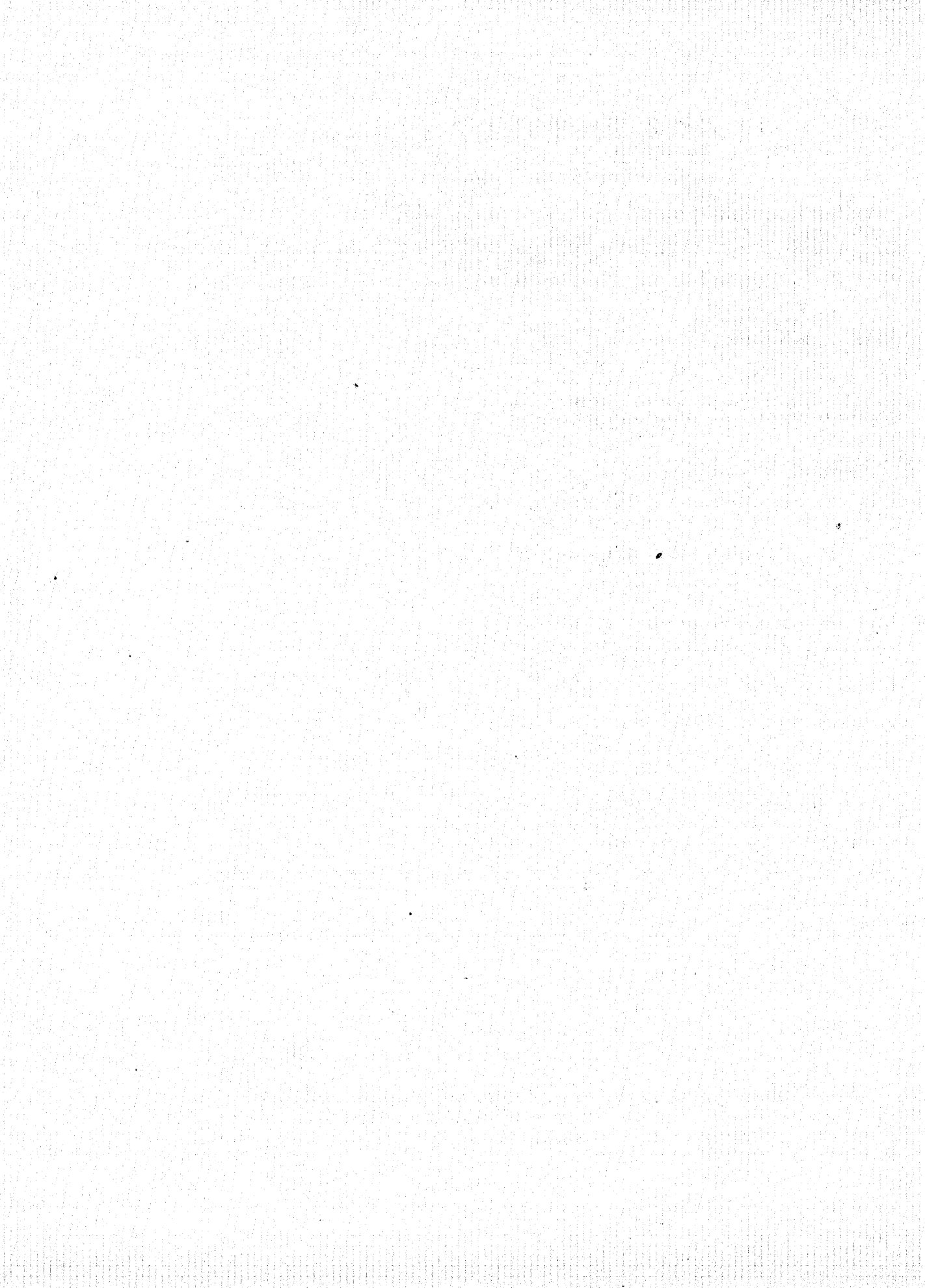
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PROVINCIAL STATUTES

OF

CANADA,

ENACTED by Her Most Excellent Majesty, Our Sovereign Lady VICTORIA, by the Grace of God of the United Kingdom of Great Britain and Ireland, QUEEN, Defender of the Faith, &c., by and with the advice and consent of the Legislative Council and Assembly of the said Province, constituted and assembled by virtue of and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the Third and Fourth years of Her Majesty's Reign, intituled, "*An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada.*"

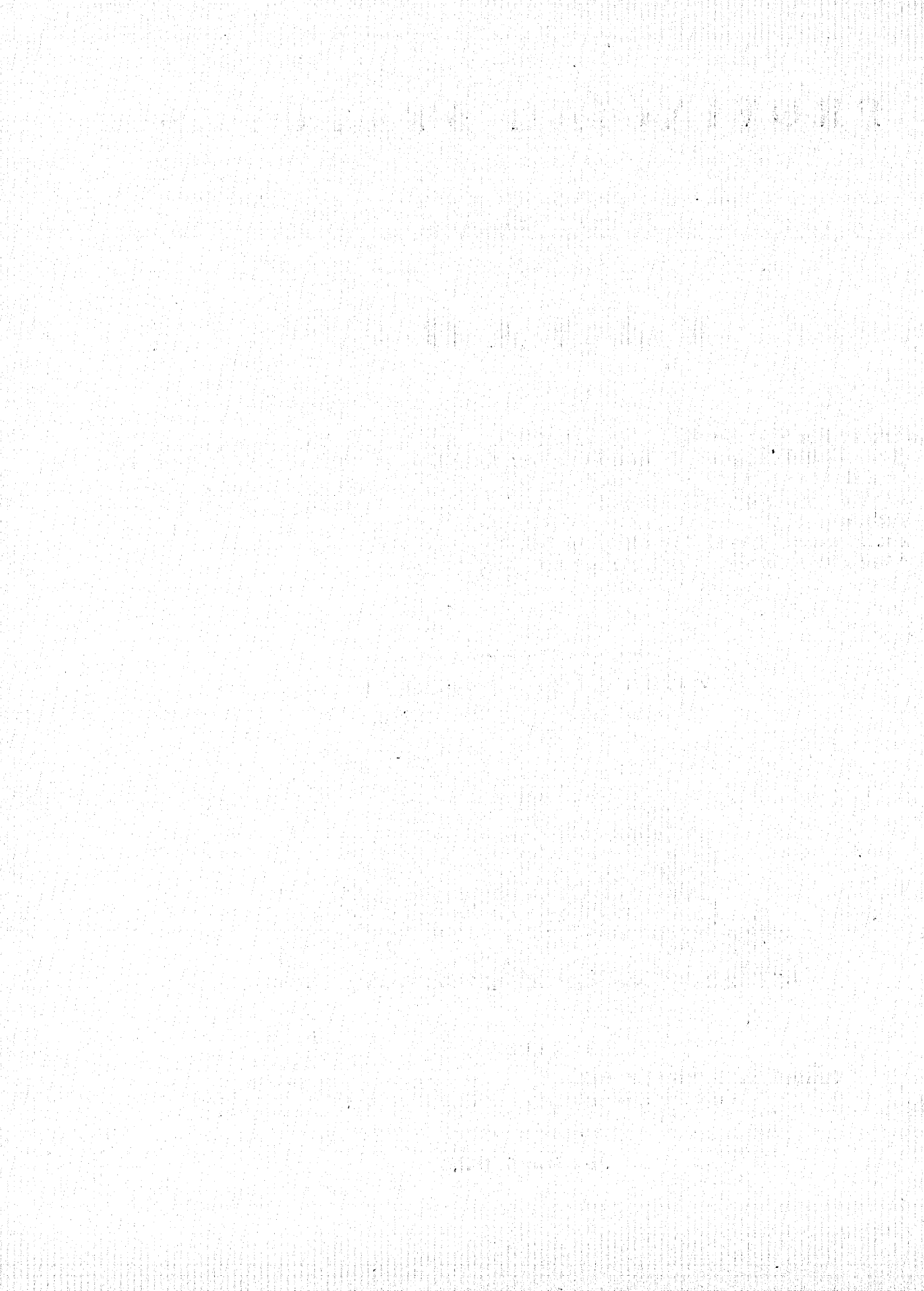
VOL. III. 2nd Sess. 3rd Parlt.



MONTREAL:

PRINTED BY STEWART DERBISHIRE & GEORGE DESBARATS,
LAW PRINTER TO THE QUEEN'S MOST EXCELLENT MAJESTY.

Anno Domini, 1849.



PROVINCIAL STATUTES

OF

CANADA.

ANNO REGNI DUODECIMO

VICTORIÆ,

DEI GRATIÂ BRITANNIARUM REGINÆ.

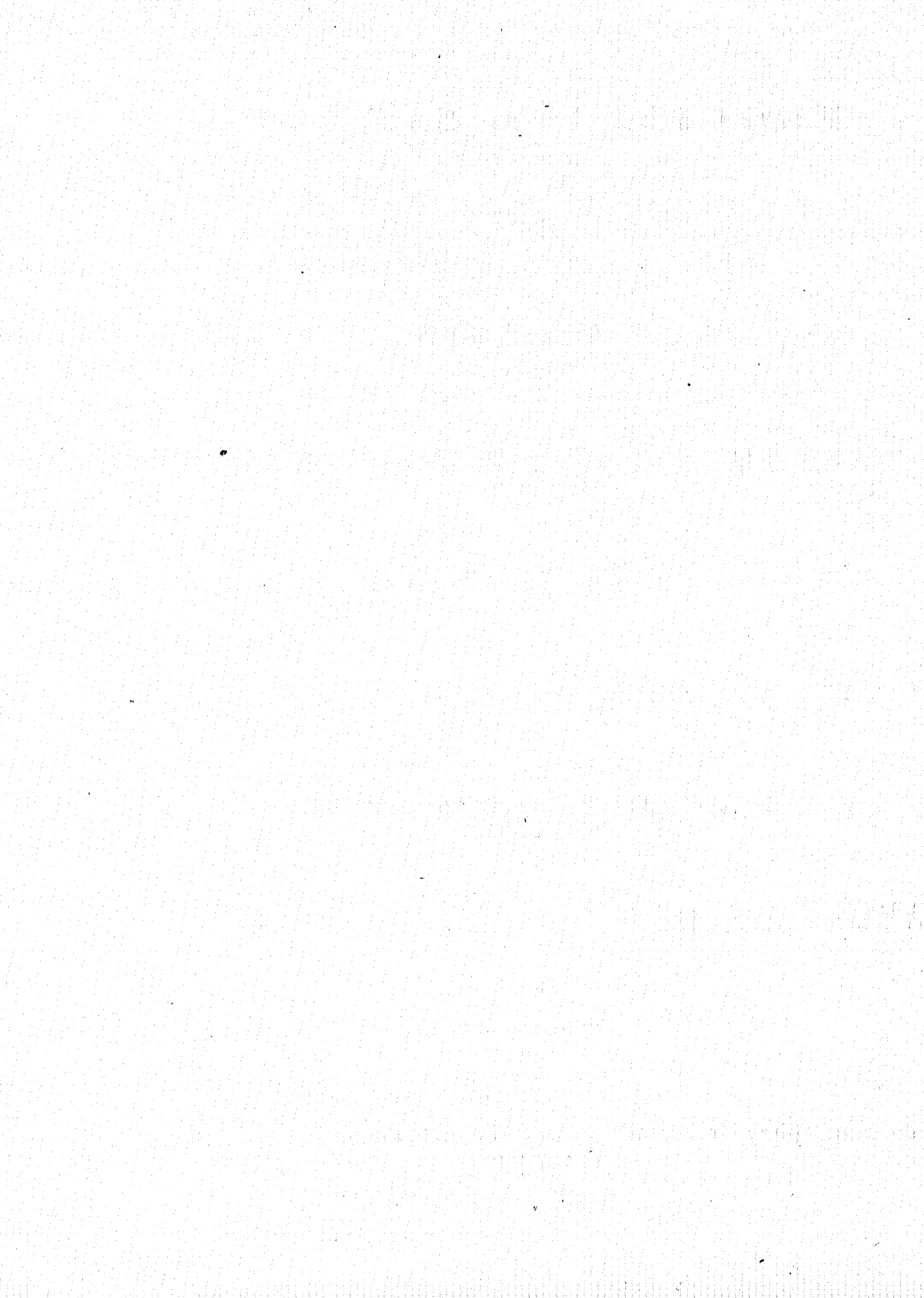
HIS EXCELLENCY THE RIGHT HONORABLE

JAMES, EARL OF ELGIN AND KINCARDINE, K. T.

GOVERNOR GENERAL.

**BEING THE SECOND SESSION OF THE THIRD PROVINCIAL PARLIAMENT OF
CANADA.**

1849





ANNO DUODECIMO
VICTORIÆ REGINÆ.

C A P. I.

An Act to amend the Law relative to Duties of Customs.

[25th April, 1849.]

WHEREAS it is expedient to amend the law relative to Duties of Customs, and for that purpose to repeal one and to repeal in part and to amend another of the Acts hereinafter mentioned: Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the Act passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, and intituled, *An Act to amend an error in the Act of the present Session, imposing Duties of Customs*, and the third and fifteenth sections of the Act passed in the said Session, and intituled, *An Act for repealing and consolidating the present Duties of Customs in this Province, and for other purposes therein mentioned*, and the Schedule to the said Act annexed, containing the Table of Duties of Customs inwards and Table of Exemptions and list of articles prohibited to be imported, and so much of any other part of the Act last mentioned or of any other Act or law, as shall be inconsistent with this Act, shall be, and the said Act, Schedule and enactments are hereby repealed.

Preamble.

Act 10 & 11 V. c. 32, and parts of c. 31 of the same Session repealed.

II. And be it enacted, That in lieu and instead of the Duties of Customs imposed by the Act last above mentioned, and of all other Duties of Customs upon Goods, Wares and Merchandize imported into this Province, there shall be raised, levied, collected and paid unto Her Majesty, Her Heirs and Successors, upon Goods, Wares and Merchandize imported into this Province, or taken out of warehouse for consumption therein, the several Duties of Customs respectively inserted, described and set forth in the Table in the Schedule A. to this Act annexed, intituled, "Table of Duties of Customs inwards;" and that the articles enumerated or mentioned in the Table in the said Schedule, intituled, "Table of Exemptions," may be imported without payment of any duty under this Act and the Act last above mentioned; and that the articles enumerated or mentioned in the Table in the said Schedule, intituled, "Table of Prohibitions," shall not be imported into this Province, under the penalty therein mentioned, and if imported shall be forfeited, and forthwith destroyed.

New Duties imposed instead of those levied under 10 & 11 V. c. 31.

Exemptions.

Prohibitions.

III.

Articles from
B. N. A. Pro-
vinces to be
exempt only
while like ar-
ticles from
Canada, are
exempt in
such Pro-
vinces,

Proviso.

III. Provided always, and be it enacted, That the several articles mentioned in the said Table of Exemptions as being free from duty when imported directly from any British North American Province of which they are the growth, produce or manufacture, shall respectively be exempt from duty so long only as similar articles being the growth, produce or manufacture of this Province, and exported from it directly to such other Province, shall be there admitted free from duty, otherwise they shall be subject to the same duty, as if imported from any other Country; and the Governor in Council may from time to time declare that any such article is or is not under this section admissible into this Province free of duty when imported from any other Province named in the Order in Council to be made in that behalf; Provided also, that no such Order shall have the effect of rendering any article liable to duty when imported from any such Province, in any case in which it would be free from duty if imported from any other Country.

As to unen-
umerated ar-
ticles bearing a
similitude to
articles enu-
merated.

Packages to be
deemed goods.

IV. Provided always, and be it enacted, That there shall be raised, levied, collected and paid on each and every non-enumerated article which bears a similitude either in material, quality or the use to which it may be applied, to any enumerated article chargeable with duty, the same rate of duty which is charged on the enumerated article which it most resembles in any of the particulars before mentioned; and if any non-enumerated article equally resembles two or more enumerated articles on which different rates of duty are chargeable, the duty on such non-enumerated article shall be the same as that on the enumerated article which it resembles, paying the highest duty; and on all articles manufactured from two or more materials, the duty shall be that charged on the article (if there be a difference of duty) which is charged with the highest duty: and the packages in which goods are contained shall be deemed goods within the meaning of this Act and of the Act hereby amended, and shall be subject to duty accordingly, excepting always, such packages as are required only for the security of the goods during the transport thereof, and which do not usually accompany the goods when sold in this Province as being necessary for containing the same.

Recital.

Appraisers to
be appointed.

They shall
take an oath
of office.

V. And inasmuch as the duties hereby imposed are chiefly *ad valorem* duties, and it is expedient to make such provisions for the valuation of goods subject to the same, as may protect the revenue and the fair trader against fraud by the undervaluation of any such goods; Be it therefore enacted, That it shall be lawful for the Governor of this Province, from time to time, and when he shall deem it expedient, to appoint fit and proper persons to be Appraisers of Goods, Wares and Merchandize, and to act as such respectively, at such Ports of entry and places as shall be designated by the Governor; and each such Appraiser shall, before he shall act as such, take and subscribe the following oath of office before some Justice of the Peace having jurisdiction where the oath is taken, and shall deliver the same to the Collector at the Port or place, or at one of the Ports or places where he shall be appointed to act:

The oath.

“ I, A. B., having been appointed an Appraiser of Goods, Wares and Merchandize, and to act as such at the Port of _____ (or, as the case may be), do solemnly swear that I will faithfully perform the duties of the said office, without partiality, fear, favor or affection, and that I will appraise the value of all Goods, Wares and Merchandize submitted to my appraisement, according to the true intent and meaning of the laws imposing duties of Customs in this Province, and that I will use my best endeavours to prevent all fraud, subterfuge or evasion of the said laws, and more especially

“ especially to detect, expose and frustrate all attempts to undervalue any Goods,
 “ Wares or Merchandize on which any duty is chargeable. So help me God.”

A. B.
Appraiser for
(as the case may be).

“ Sworn before me, this _____ day of _____ 18 ____ ”
 E. F.
 J. P. for *(as the case may be).*

And if no Appraiser be appointed at any Port of entry, the Collector there shall act as Appraiser, but without taking any special oath of office as such; Provided always, that it shall always be lawful for the Governor to direct any Appraiser to attend at any Port or place for the purpose of valuing any goods, or of acting as Appraiser there during any time, which such Appraiser shall accordingly do without taking any new oath of office; and each Appraiser shall be deemed an Officer of the Customs.

Collector to act where there is no Appraiser.
 Proviso: Appraisers may be sent to any Port to appraise goods.

VI. And be it enacted, That in all cases where any duty is or shall be imposed on any goods, imported into this Province, *ad valorem* or according to the value thereof, such value shall be understood to be the actual cash value thereof in the principal markets in the country where the same were purchased and whence they were exported to this Province, or if such goods were purchased in one country and exported to this Province from another country, then in the principal markets of the country where such goods were purchased by the person or persons importing the same into this Province; And it shall be the duty of each and every Appraiser and of every Collector when acting as such, by all reasonable ways and means in his power, to ascertain, estimate and appraise the true and actual market value and wholesale price as aforesaid, of any goods to be appraised by him, any Invoice or Affidavit to the contrary notwithstanding, in order to estimate and ascertain the value upon which duty is to be charged as aforesaid.

What shall be the value for duty, and how calculated.

Duty of Appraisers.

VII. And be it enacted, That except only in cases where it shall be otherwise provided by regulation of the Governor in Council, no Entry shall be deemed perfect unless a sufficient Invoice of the goods to be entered, attested as hereinafter required, shall have been produced to the Collector; nor shall any goods be entered by Bill of Sight, notwithstanding any thing in the thirteenth Section or any other part of the Act hereby amended, unless in addition to the deposit of money required by the said Section, the person to whom such goods shall be delivered, shall take the oath in such case provided in the Schedule to this Act, and shall jointly and severally with one or more sureties, give bond to the satisfaction of the Collector, to produce a sufficient Invoice of such goods attested in the manner required by this Act, and to make perfect Entry thereof, and to pay any deficiency of duty thereon, within a time to be appointed by the Collector, but this shall not exempt such person from compliance with all the requirements of the said Act, nor prevent the sum of money by him deposited from being dealt with in the manner provided by the said Section, if perfect Entry be not made within the time so appointed as aforesaid: Provided always, that such Sight Entry may be made as provided in the said thirteenth section, if the person to whom such goods shall be delivered shall make oath that such sufficient Invoice has not been and cannot be produced.

Except in certain cases, no Entry shall be perfect without the production of an Invoice: Bond to be given for producing one, on landing goods by Bill of Sight.

Invoice to be attested on oath by the owner of the goods.

Form of oath.

Bill of Entry to mention the value for duty, and to be attested.

Party entering may add to the value by the Invoice so as to give the true value for duty.

Provision for the death, &c. of the owner, importer, &c.

As to any case where there may be more than one owner of goods.

Before whom the attestation of Invoices or Bills of Entry may be made.

VIII. And be it enacted, That with the Bill of Entry of any goods there shall be produced and delivered to and left with the Collector, if required by him, an Invoice of such goods, attested by the oath of the owner, and if the owner be not the person entering such goods, then verified also by the oath of the importer or consignee, or other person who may under this Act lawfully make such Entry and verify such Invoice, in the form or to the effect of the oath or oaths provided for the case in the Schedule B to this Act annexed, which oath or oaths shall be written or printed, or partly written and partly printed on such Invoice, or on the Bill of Entry (as the case may be) or shall be annexed thereto, and shall in either case distinctly refer to such Invoice so that there can be no doubt as to its being the Invoice to which such oath is intended to apply, and shall be subscribed by the party making it and certified by the signature of the person before whom it shall have been made; and the Bill of Entry shall also contain a Statement of the value for duty of the goods therein mentioned, and shall be signed by the person making the Entry, and shall be verified in the form or to the effect of the oath provided for the case in the said Schedule B.

IX. And be it enacted, That in any such Bill of Entry as aforesaid, it shall be lawful for the person making the same, to add such sum to the value stated in the Invoice, as shall be sufficient to make the value for duty such as it ought to be under the provisions of this Act, and such value shall then, for the purposes of this Act, stand in stead of the value as it would appear by the Invoice: and no evidence of the value of any goods imported into this Province, or taken out of warehouse for consumption therein, at the place whence and the time when under this Act they are to be deemed to have been exported to this Province, contradictory to or at variance with the value stated in the Invoice produced to the Collector, with the additions (if any) made to such value by the Bill of Entry, shall be received in any Court in this Province, on the part of any party except the Crown.

X. And be it enacted, That if the owner, importer or consignee of any goods be dead, or a bankrupt or insolvent, or if for any cause his personal estate be administered by another person, then his executor, curator, administrator or assignee, or person administering as aforesaid, may, if cognizant of the facts, take any oath and make any entry which such owner, importer or consignee might otherwise have taken or made.

XI. And be it enacted, That if there be more than one owner, importer or consignee of any goods, any one of them cognizant of the facts, may take the oath required by this Act, and such oath shall be sufficient, unless the goods shall not have been obtained by purchase in the ordinary way, and some owner resident out of this Province shall be the manufacturer or producer of the goods, or concerned in the manufacture or production thereof, in which case the oath of such non-resident owner (or of one of them, if there be more than one) cognizant of the facts, shall be requisite to the due attestation of the Invoice.

XII. And be it enacted, That the oath required by this Act may be made in this Province before the Collector at the Port where the goods are entered, or if the person making such oath be not resident there, then before the Collector of some other Port; and when such oath is required to be made out of the limits of this Province, it may be made at any place within the Dominions of Her Majesty, before the Collector or before the Mayor or other Chief Municipal Officer of the place where the goods shall be

be shipped, and at any place out of the Dominions of Her Majesty, before the British Consul at such place, or if there be no such Consul, then before some one of the principal merchants at such place, not interested in the goods in question: Provided always, that the Governor in Council may from time to time by Regulation appoint or designate such other and additional persons, officers or functionaries as he shall see fit, by name or by their name of office, and in this Province or out of it, and within or beyond Her Majesty's Dominions, as those before whom such oath, may be validly taken, and may by any Order in Council relax or dispense with the provisions of this Act touching such oath, in or with regard to goods imported by land or inland navigation, or to any other class of cases to be designated in such Regulation.

Proviso:
Governor may appoint other persons; or relax provisions as to oaths.

XIII. And be it enacted, That no provision of this Act requiring the owner of any goods to take any oath, shall apply during the three months next after the passing thereof, to any such owner resident out of this Province, nor during the twelve months next after the passing thereof to any owner resident in the United Kingdom or in any place equally distant from this Province, nor during the eighteen months next after the passing thereof to any owner resident at any place more distant from this Province than the said United Kingdom.

The provisions of this Act not to apply to owners out of this Province, during certain periods.

XIV. And be it enacted, That it shall be lawful for any Appraiser, or for any Collector acting as such, (or for the merchants to be selected as hereinafter mentioned, to examine and appraise any goods, if the importer, owner, consignee or agent be dissatisfied with the first appraisement) to call before him or them and examine upon oath any owner, importer, consignee or other person, touching any matter or thing which such Appraiser or Collector may deem material in ascertaining the true value of any goods imported, and to require the production on oath of any Letters, Accounts, Invoices or other Papers in his possession relating to the same; and if any person so called shall neglect or refuse to attend, or shall decline to answer, or shall refuse to answer in writing (if required) to any interrogatories, or to subscribe his name to his deposition or answer, or to produce any such Papers as aforesaid when required so to do, he shall thereby incur a penalty of twelve pounds ten shillings, and if such person be the owner, importer or consignee of the goods in question, the appraisement which the Appraiser or Collector acting as such shall make thereof, shall be final and conclusive; and if any person shall wilfully swear falsely in any such examination, and he be the owner, importer or consignee of the goods in question, they shall be forfeited; and all depositions or testimony in writing taken under this section, shall be filed in the office of the Collector at the place where the same shall be made or taken, there to remain for future use or reference, subject nevertheless to the order of the Inspector General.

Power of any Appraiser or Collector to examine parties on oath, &c.

Penalty for refusing to attend, &c.

£12 10s. Penalty for wilfully false evidence.

XV. Provided always, and be it enacted, That if the importer, owner, consignee or agent, having complied with the requirements of this Act and of the Act hereby amended, shall be dissatisfied with the appraisement made as aforesaid of any such goods, he may forthwith give notice in writing to the Collector of such dissatisfaction, on the receipt of which notice the Collector shall select two discreet and experienced merchants, subjects of Her Majesty, and familiar with the character and value of the goods in question, to examine and appraise the same, agreeably to the foregoing provisions, and if they shall disagree, the Collector shall decide between them; and the appraisement thus made shall be final and conclusive, and the duty shall be levied accordingly: And the said merchants shall each be entitled to the sum of twenty-five shillings, to be paid by the

Depositions to be kept. Proviso: importer may appeal from appraisement in certain cases.

the party dissatisfied with the former appraisement if the value ascertained by the second appraisement shall be equal to or greater than that ascertained by such former appraisement, otherwise the same shall be paid by the Collector out of any public monies in his hands and charged in his accounts: and any merchant who shall be chosen to make any appraisement required under this Act, and who shall after due notice of such choice has been given to him in writing, decline or neglect to make such appraisement, shall for so refusing or neglecting incur a penalty of ten pounds and costs: Provided also, that where the actual value for duty of any goods appraised, estimated and ascertained as aforesaid, shall exceed by twenty per centum or more the value for duty as it would appear by the Invoice and Bill of Entry thereof, then in addition to the duty otherwise payable on such goods when properly valued, there shall be levied and collected upon the same a further duty equal to one half the duty so otherwise payable: and provided further, that the value of any goods for duty shall never be appraised at less than the value for duty as it would appear by the Invoice and Bill of Entry.

Proviso: penalty where the appraised value shall exceed that in the Bill of Entry by 20 per cent.

Proviso: appraised value never to be less than that in Bill of Entry.

Collector may take the duty in kind.

Mode of taking the same, &c.

XVI. And be it enacted, That it shall always be lawful for the Collector when the value of the goods is in dispute, and when he shall deem it advisable, in order to protect the revenue and the fair trader from fraud by undervaluation, and where the same is practicable, and subject always to such Regulations as may be made by the Governor in Council, to take the amount of the duty chargeable on any article on which an *ad valorem* duty is payable (after deducting one eleventh of the duty) in the article itself, taking any specific duty at the rate at which the article shall be valued for duty by the owner, importer, agent or consignee; (that is to say, if the duty after such deduction be ten per cent *ad valorem*, he may take one tenth of such goods,) and if there be any specific duty thereon, he may also take such quantity of the said goods as at the value last aforesaid shall be equivalent to the amount of such specific duty after deducting one eleventh as aforesaid; and out of any number of packages or quantities in the same Invoice or Bill of Entry, the Collector may take his choice at the rates therein assigned to such articles respectively: and such goods so taken shall be sold or dealt with in such manner as shall be provided by regulation of the Governor in Council.

Collector may take goods on paying the value assigned in the Bill of Entry, and charges.

How such goods shall be dealt with.

Proviso: Bonus to Collector.

XVII. And be it enacted, That it shall always be lawful for the Collector, when he shall deem it expedient for the protection of the Revenue, and of the fair Trader, and subject always to any regulations to be made by the Governor in Council in that behalf, to detain and cause to be properly secured, and at any time within fifteen days to declare his option to take, and to take for the Crown, any whole package or packages, or separate and distinct parcel or parcels, or the whole of the goods mentioned in any Bill of Entry, and to pay, when thereunto requested, to the owner or person entering the same, and out of any public monies in the hands of such Collector, the sum at which such goods, packages or parcels, shall be respectively valued for duty in the Bill of Entry, and ten per cent thereon, and also the fair freight and charges thereon to the Port of Entry, and to take a receipt for such sum and addition when paid; and the goods so taken, shall (whether such payment be requested or not) belong to the Crown from the time they shall be so taken as aforesaid, and shall be sold or otherwise dealt with in such manner as shall be provided by any regulation in that behalf, or as the Governor of this Province shall direct, and the net proceeds of the sale of any such goods, shall be dealt with as monies arising from duties of Customs; Provided always, that if the net proceeds of any such sale, shall exceed the amount paid

paid as aforesaid for such goods, then any part of the surplus not exceeding fifty per centum of such surplus, may, under any Regulation or Order of the Governor in Council, be paid to the Collector, Appraiser or the other Officer concerned in the taking thereof, as a reward for his diligence.

tors, Appraisers, &c. for diligence.

XVIII. And be it enacted, That it shall be the duty of the Collector to cause at least one package in every Invoice, and at least one package in ten if there be more than ten in any Invoice, and so many more as he or any Appraiser shall deem it expedient to examine for the protection of the Revenue, to be sent to the warehouse and there to be opened, examined and appraised, the packages to be so opened being designated by the Collector on the Invoice; and if any package shall be found to contain any goods not mentioned in the Invoice, or if any goods be found which shall not correspond with the description thereof in the Invoice, and such omission or non-correspondence shall appear to have been made for the purpose of avoiding the payment of the duty or of any part of the duty on such goods, or if in any Invoice or Entry any goods shall have been undervalued with such intent as aforesaid, or if the oath or affirmation made with regard to any such Invoice or Entry shall be wilfully false in any particular, then in any of the cases aforesaid all the packages and goods included or pretended to be included or which ought to have been included in such Invoice or Entry, shall be forfeited: and the burden of proof that all the requirements of this Act and of the Act hereby amended, with regard to the Entry of any goods, have been complied with and fulfilled, shall in all cases lie upon the parties whose duty it was to comply with and fulfil the same.

Collector to cause a certain number of packages in every Entry to be opened, &c.

Forfeiture of goods not mentioned in Invoice, or undervalued, &c.

Or for false statement in any oath, &c.

Onus of proof on whom to lie.

XIX. And be it enacted, That if any person shall knowingly and wilfully, with intent to defraud the revenue of this Province, smuggle or clandestinely introduce into this Province any goods subject to duty, without paying or accounting for the duty thereon, or shall make out or pass or attempt to pass through the Custom House, any false, forged or fraudulent Invoice, or shall in any way attempt to defraud the revenue by evading the payment of the duty or of any part of the duty on any goods, every such person, his, her or their aiders or abettors shall, in addition to any other penalty or forfeiture to which they may be subject for such offence, be deemed guilty of a misdemeanor, and on conviction shall be liable to a penalty not exceeding fifty pounds or to imprisonment for a term not exceeding one year, or both, in the discretion of the Court before whom the conviction shall be had.

Penalty on persons smuggling goods, using false Invoices, &c.

XX. And be it enacted, That the value of any goods shall always be stated in the Bill of Entry thereof, although such goods be not subject to duty, and the Invoice thereof shall be produced to the Collector, but need not be left with him or attested on oath.

Value to be given in Entry although the goods be duty free.

XXI. And be it enacted, That the Governor in Council may, by such Regulations as he shall from time to time make in that behalf, require such information with regard to the description, quantity, quality and value of goods exported from this Province to be given to the proper Officer of the Customs, in the Entry of such goods outwards or otherwise, as he shall deem requisite for statistical purposes, whether such goods be exported by sea, land or inland navigation.

Governor in Council may require statistical information as to exports.

Bonds for duties on goods in warehouse may be dispensed with in certain cases.

XXII. And be it enacted, That for and notwithstanding any thing in the Act hereby amended, or in this Act, the Governor in Council, may, by such Regulations as he shall from time to time make in that behalf, dispense with or provide for the cancelling of Bonds for the payment of duties on goods actually deposited in Warehouse under the Crown's Lock, on such terms and conditions and in such cases as he shall think proper.

Certain things may be done by an Attorney and Agent.

XXIII. And be it enacted, That any Attorney and Agent duly thereunto authorized by a written instrument, which he shall deliver to and leave with the Collector, may in his said quality validly make any Entry or execute any Bond or other Instrument required by this Act or by the Act hereby amended, and shall thereby bind his principal as effectually as if such principal had himself made such Entry or executed such Bond or other Instrument, and may take the oath hereby required of a Consignee or Agent, if he be cognizant of the facts therein averred: and any Instrument appointing such Attorney and Agent shall be valid if in the form in the Schedule B hereunto annexed, or in any form of words to the like effect.

Any partner may bind the Firm of which he is a Member.

XXIV. And be it enacted, That any partner in any unincorporated company, association or copartnership of persons, or their Attorney and Agent authorized as aforesaid, may, under the name and style usually taken by such company, association or copartnership, make any Entry or execute any Bond or other Instrument required by this Act or by the Act hereby amended, without mentioning the name or names of any of the Members or of the other Members of the company or association or partnership, and such Entry, Bond or Instrument shall nevertheless bind them as fully and effectually, and shall have the same effect in all respects as if the name of every such Member or Partner had been therein mentioned and he had signed the same, and (if it be a Bond or other Instrument under Seal) as if he had thereunto affixed his Seal and had delivered the same as his act and deed; and the Seal thereunto affixed shall be held to be the Seal of each and every such Member or Partner as aforesaid: and the provisions of this Section shall apply to any Instrument by which any company, association or partnership of persons shall appoint an Attorney or Agent to act for them under the next preceding section; Provided always, that the person who under this section shall make any Entry or execute any Bond or Instrument on behalf of any company, association or partnership, shall, under the name and style usually taken by them, write his own name with the word "by" or the words "by their Attorney," (*as the case may be*) thereunto prefixed.

As to sealed Instruments.

Proviso as to form of signing.

Not less than a certain quantity of goods to be taken out of warehouse at one time.

XXV. And be it enacted, That for and notwithstanding any thing in the Act hereby amended or elsewhere, no parcel of goods shall be taken out of warehouse, whether for consumption in this Province, or removal to some other Port, unless the duties thereon amount to the sum of five pounds or upwards, or such parcel be all the goods remaining in warehouse, and comprised in the same Entry for warehousing.

As to mode of proceeding in suits for penalties or forfeitures in Lower Canada.

XXVI. And be it enacted, That for and notwithstanding any thing in the fifty-second Section or in any other part of the Act hereby amended, all penalties and forfeitures imposed by the said Act or by this Act, or by any other Act relating to the Customs or to Trade or Navigation, may in Lower Canada, be sued for, prosecuted and recovered, with costs, by the same form of proceeding as any other monies due to the Crown, and all suits or prosecutions for the recovery thereof, shall be heard

heard and determined, in like manner as other suits or prosecutions in the same Court for monies due to the Crown, except that in the Circuit Court, the same shall be heard and determined in a summary manner, as provided in the Act hereby amended: And that all such suits or prosecutions shall be sued for, prosecuted and recovered with costs by Her Majesty's Attorney General or Solicitor General, or in the name or names of some Officer or Officers of the Customs, or other person or persons thereunto authorized by the Governor General in Council, either expressly or by General Regulation or Order, and by no other party; but nothing in this Section shall affect any provisions of the said amended Act, except such only as relate to the form of proceeding and of trial in such suits or prosecutions as aforesaid.

Proviso.

XXVII. And be it enacted, that in any Regulation to be made by the Governor in Council, under the said amended Act or this Act, any oath or affirmation may be prescribed and required which the said Governor in Council may deem necessary to protect the Revenue against fraud, and any person or officer may be authorized to administer the same, and all Regulations which the Governor in Council is authorized by this Act to make, shall be held to be made also under the Act hereby amended, all the provisions whereof, as to the amount of penalties which may be imposed, the mode of publication and proof or otherwise shall apply to such Regulations accordingly.

Regulations by Governor in Council may require oaths, &c.

XXVIII. And be it enacted, That in every case where the person required to take any oath under this Act, shall be one of the persons entitled by law to take a solemn affirmation instead of an oath in civil cases, such person may instead of the oath required by this Act make a solemn affirmation to the same effect; and that every person before whom any oath is by this Act or by any Regulation to be made under this Act or the said amended Act, required or allowed to be taken, or solemn affirmation to be made, shall have full power to administer the same; and that the wilfully making any false statement in any such oath, shall be perjury, and the wilfully making any false statement in any such solemn affirmation, shall be a misdemeanor punishable as perjury.

Affirmation to be made instead of an oath in certain cases, &c.

Punishment for false statements.

XXIX. And be it enacted, That this Act shall be construed as if its provisions made part of the Act hereby amended, instead of those parts of the said Act which are hereby repealed or superseded; and all words and expressions used in this Act shall be held to have the meaning assigned to them in the said Act; and except where it is otherwise herein provided, all the provisions of the said amended Act, with regard to the duties and penalties thereby imposed, and not inconsistent with those of this Act, shall apply to the duties and penalties imposed by this Act.

Act to be construed as part of 10 & 11 V. c. 31.

XXX. And whereas it appears that during the year one thousand eight hundred and forty-eight, certain Gunpowder and other Ordnance Stores for the use of Her Majesty's Forces, were imported into this Province, and the same not being within the Letter of the Table of Exemptions in the Schedule annexed to the Act hereby amended, Bonds were taken for payment of the duties thereon if the Legislature should declare such duties payable; and whereas it was not the intention of the Legislature that such duties should be payable: Be it therefore enacted, That no duties shall be payable on the said Gunpowder and Ordnance Stores, and that all Bonds given for the payment of duties thereon shall be and are hereby declared void, and shall be cancelled.

Recital.

Bonds for duties on certain Ordnance Stores made void.

Recital.

XXXI. And whereas it appears that certain Cargoes of goods being the growth, produce or manufacture of Nova Scotia and other British North American Colonies, were during the year one thousand eight hundred and forty-eight, imported into this Province in good faith, the Importers believing that the said goods would be admitted free of duty under the third section of the Act hereby amended, inasmuch as like goods being the growth, produce or manufacture of this Province were then admitted free of duty into the Colonies whence the said goods were imported; and whereas the said goods were admitted free of duty by order of His Excellency the Governor General in consideration of the circumstances aforesaid, although no Order in Council had then been made in that behalf under the said third Section of the Act hereby amended, and it is expedient to provide for the indemnification of all parties concerned in the free admission of the said goods; Be it therefore enacted, That the Order for the free admission of the said goods shall be deemed to have been lawfully made, and all Officers or persons concerned in making or in obeying and carrying out the said Order, are hereby indemnified and saved harmless for what they may have done in that behalf.

Free admission of certain goods made legal.

Duties may in certain cases be increased by Order in Council.

XXXII. And whereas emergencies may arise for which, in order to maintain the public faith, it may be necessary to provide before the time at which the Provincial Parliament can be assembled: Be it therefore enacted, That it shall be lawful for the Governor in Council from time to time, and whenever, in his opinion, it may be necessary, in order to enable the Consolidated Revenue Fund to meet the charges placed thereon, to increase the Duties of Customs imposed by this Act, by adding one tenth part, or ten per centum thereon, to such Duties, by any Order in Council to be made and published in the Canada Gazette not less than three months before it is to take effect, and in like manner and after like notice, to take off such additional duty, and such additional duty shall be payable accordingly on all goods imported into this Province, or taken out of Warehouse for consumption therein while any such Order in Council shall be in force.

Act may be amended, &c. this Session.

XXXIII. And be it enacted, That this Act may be altered, amended or repealed by any Act to be passed during the present Session of the Provincial Parliament.

SCHEDULE A.

TABLE OF DUTIES OF CUSTOMS INWARDS.

ARTICLES.	Duty Cy.		
	£	s.	d.
SUGAR, Refined in loaves or crushed or Candy, the cwt.....	0	14	0
And further for every £100 value.....	12	10	0
—, Bastard, and other kinds, the cwt.....	0	9	0
And further for every £100 value.....	12	10	0
MOLASSES, the cwt.....	0	3	0
And further for every £100 value.....	12	10	0

TEA,

	Duty Cy.		
	£	s.	d.
TEA, the lb.	0	0	1
And further for every £100 value.	12	10	0
COFFEE, Raw or Green, the cwt.	0	4	8
And further for every £100 value.	12	10	0
———, Other kinds, the cwt.	0	14	0
And further for every £100 value.	12	10	0
TOBACCO, Manufactured, the lb.	0	0	1
And further for every £100 value.	12	10	0
———, Unmanufactured, the lb.	0	0	0½
And further for every £100 value.	12	10	0
———, Cigars, the lb.	0	1	6
And further for every £100 value.	12	10	0
———, Snuff, the lb.	0	0	4
And further for every £100 value.	12	10	0
WINE, In wood, value £15 the Pipe (of 126 gallons,) or under, the gallon,	0	0	6
And further for every £100 value.	25	0	0
———, In wood, value over £15 the Pipe, the gallon.	0	1	6
And further for every £100 value.	25	0	0
———, In bottles, or other vessels not made of wood, the gallon.	0	4	0
And further for every £100 value.	25	0	0
SPIRITS AND STRONG WATERS, of all sorts, for every gallon of any strength not exceeding the strength of proof by Sykes' Hydrometer, and so in proportion for any greater strength than the strength of proof, and for any greater or less quantity than a gallon, viz :			
WHISKEY, the gallon.	0	0	3
And further for every £100 value.	12	10	0
RUM, the gallon.	0	1	3
And further for every £100 value.	25	0	0
GENEVA, BRANDY and other SPIRITS or STRONG WATERS, except RUM and WHISKEY, the gallon.	0	2	0
And further for every £100 value.	25	0	0
SPIRITS, CORDIALS and LIQUEURS, sweetened or mixed with any article so that the strength cannot be ascertained by Sykes' Hydrometer, the gallon.	0	3	0
And further for every £100 value.	25	0	0
SALT, the bushel.	0	0	1
And further for every £100 value.	12	10	0
SPICES and FRUITS, NUTS, VINEGAR, MACARONI, and VERMICELLI, SWEET-MEATS or FRUIT preserved in Sugar, Candy or Molasses, for every £100 value.	30	0	0

	<i>Duty Cy.</i>		
	£	s.	d.
ANIMALS of all kinds, Hams, Meats of all kinds (except Mess Pork,) Butter, Cheese, Flour, Barley, Buckwheat, Bear and Bigg, Oats, Rye, Beans and Peas, Meal of the above grains and of Wheat not bolted, Bran in shorts, and Hops, for every £100 value.....	20	0	0
ANCHORS,—Bark, Berries, Nuts, Vegetables, Woods and Drugs used solely in dying, and Indigo—Bristles,—Burr stones unwrought,—Chain Cables, the iron of the links of which is not less than five eighths of an inch diameter, and which are not less than fifteen fathoms in length,—Coal and Coke,—Grease and Scraps,—Hemp, Flax and Tow, undressed,—Hides,—Junk or Oakum,—Lard,—Lead, pig and sheet,—Marble in blocks unpolished,—Oil, Coconut, and Palm only,—Ores of all kinds of Metals,—Rail-road Bars,—Bar and Rod Iron, not hammered,—Charcoal, made or refined,—Boiler Plate, Sheet iron not thinner than number sixteen wire gauge, and Hoop Iron, not more than two inches broad, Spike Rods, Pig, Scrap and Old Iron,—Pipe Clay,—Resin and Rosin,—Saw logs,—Ships' Water Casks in use,—Teasles,—Steel,—Broom Corn,—Wood used in making Carpenters' or Joiners' Tools,—Tallow,—Tar and Pitch,—Tarred Rope, when imported by Shipbuilders for the rigging of their ships,—Type-metal in blocks or pigs,—Wool, for every £100 value....	2	10	0
ALL GOODS, WARES and MERCHANDIZE, not otherwise charged with duty, and not hereinafter declared to be exempt from duty, for every £100 value.....	12	10	0

TABLE OF EXEMPTIONS.

Ashes, Pot and Pearl, and Soda ; Cotton Wool ; Anatomical Preparations ; Philosophical Instruments and Apparatus ; Printed Books, (not foreign reprints of British Copyright Works,) Maps ; Busts and Casts of Marble, Bronze, Alabaster, or Plaster of Paris ; Paintings, Drawings, Engravings, Etchings and Lithographs ; Cabinets of Coins, Medals, or Gems, and other collections of Antiquities ; Specimens of Natural History, Mineralogy or Botany ; Trees, Shrubs, Bulbs and Roots, Wheat and Indian Corn ; Animals specially imported for the improvement of Stock.

Models of Machinery and other inventions and improvements in the Arts.

Coin and Bullion.

Manures of all kinds.

Arms, Clothing, Cattle, Provisions and Stores of every description, which any Commissary or Commissaries, Contractor or Contractors shall import or bring or which may be imported or brought by the Principal or other Officer or Officers of Her Majesty's Ordnance into the Province for the use of Her Majesty's Army or Navy, or for the use of the Indian Nations in this Province, provided the duty otherwise payable thereon would be defrayed or borne by the Treasury of the United Kingdom or of this Province.

Horses

Horses and Carriages of travellers; and Horses, Cattle and Carriages and other vehicles, when employed in carrying Merchandize, together with the necessary harness and tackle, so long as the same shall be *bonâ fide* in use for that purpose, except the Horses, Cattle, Carriages, Vehicles and Harness of persons hawking Goods, Wares and Merchandize through the Province for the purpose of retailing the same, and the Horses, Cattle, Carriages and Harness of any Circus or Equestrian Troop for exhibition; the Horses, Cattle, Carriages and Harness of any Menagerie to be free.

Donations of Clothing specially imported for the use of or to be distributed gratuitously by any Charitable Society in this Province.

Seeds of all kinds, Farming Utensils and Implements of Husbandry, when specially imported in good faith by any Society incorporated or established for the encouragement of Agriculture.

The following Articles in the occupation or employment of persons coming into the Province for the purpose of actually settling therein, viz :

Wearing Apparel in actual use, and other personal effects not merchandize; Horses and Cattle; Implements and Tools of Trade of handy-crafts-men.

The personal Household Effects, not Merchandize, of inhabitants of this Province, being subjects of Her Majesty and dying abroad.

And the following Articles when imported directly from the United Kingdom or from any British North American Province, and being the growth, produce or manufacture of the said United Kingdom or of such Province respectively, viz :

Animals; Beef; Pork; Biscuit; Bread; Butter; Cocoa Paste; Corn or Grain of all kinds;—Flour; Fish, fresh or salted, dried or pickled; Fish Oil; Furs or Skins the produce of fish or creatures living in the Sea;—Gypsum; Horns;—Meat;—Poultry;—Plants, Shrubs and Trees; Potatoes and Vegetables of all kinds;—Seeds of all kinds;—Skins, Pelts, Furs or Tails undressed;—Wood, viz: Boards, Planks, Staves, Timber and Firewood.

TABLE OF PROHIBITIONS.

The following Articles are prohibited to be imported, under a Penalty of Fifty Pounds, together with the Forfeiture of the Parcel or Package of Goods in which the same may be found.

BOOKS and DRAWINGS of an immoral or indecent character.

COIN, Base or Counterfeit.

SCHEDULE B.—FORMS.

OATH of AFFIRMATION of an AGENT, CONSIGNEE, or IMPORTER not being the Owner.

Province of Canada,

Port of

I, (*name*) do solemnly and truly swear (*or affirm*) that the Invoice (*or Invoices*) and Bill (*or Bills*) of Lading now presented by me to the Collector of _____ are the true and only Invoice (*or Invoices*) and Bill (*or Bills*) of Lading by me received of all the goods, wares and merchandize imported in the _____ whereof _____ is Master, from _____, (*vary these words as the case may require*) for account of any person whomsoever for whom I am authorized to enter the same; that the said Invoice (*or Invoices*) and Bill (*or Bills*) of Lading are in the same state as they were actually received by me, and that I do not know or believe in the existence of any other Invoice or Bill of Lading of the said goods, wares and merchandize; that the Bill (*or Bills*) of Entry hereunto annexed and now delivered to the said Collector contains (*or contain*) a just and true Account of the said goods, wares and merchandize, according to the said Invoice (*or Invoices*) and Bill (*or Bills*) of Lading; that nothing has been on my part, nor to my knowledge on the part of any other person, concealed or suppressed whereby Her Majesty the Queen may be defrauded of any part of the duty lawfully due on the said goods, wares and merchandize; and that if at any time hereafter I discover any error in the said Invoice (*or Invoices*, or any of them) or Bill (*or Bills*) of Lading (or any of them), or in the Bill (*or Bills*) of Entry and Account now rendered of the said goods, wares and merchandize, or receive any other Invoice of the same, or of any of them, I will immediately make known the same to the Collector of this Port. And I do further solemnly and truly swear (*or affirm*) that, to the best of my knowledge and belief, A. B. and Co. of _____, C. D. of _____, &c. (*as the case may be*) are the owners (*or is the owner*) of the goods, wares and merchandize mentioned in the said Bill (*or Bills*) of Entry hereunto annexed, as therein respectively stated; that the Invoice (*or Invoices*) now produced by me exhibits (*or exhibit*) the actual cost or fair market cash value, at the time when the same were thence exported to this Province, in the principal markets in (*insert the name of the country whence the goods were exported to this Province, or use such other words as will meet the facts*) of the said goods, wares and merchandize.

(Signature.)

Sworn (*or affirmed*) before me, this _____ day of _____ 184 .

(Signature,)

Collector.

(*or as the case may be.*)

OATH or AFFIRMATION of an OWNER whose Goods have been purchased.

Province of Canada,

Port of

I, (*name*) do solemnly and truly swear (*or affirm*) that the Bill (*or Bills*) of Entry now delivered by me to the Collector of _____, contains _____ (*or*

(*or contain*) a just and true Account of all the goods, wares and merchandize, imported by, or consigned to (*name or name of firm, &c.*) in the whereof _____ is Master, from _____, (*vary these words as the case may require*); that the Invoice (*or Invoices*) which I now produce, contains (*or contain*) a just and faithful Account of the actual cost of the said goods, wares and merchandize; that I do not know nor believe in the existence of any Invoice, or Bill of Lading, other than those now produced by me, and that they are in the state in which I actually received them. And I do further solemnly and truly swear (*or affirm*) that I have not, in the said Bill (*or Bills*) of Entry or Invoice (*or Invoices*) concealed or suppressed any thing whereby Her Majesty the Queen may be defrauded of any part of the duty lawfully due on the said goods, wares and merchandize; and that if, at any time hereafter, I discover any error in the said Invoice (*or Invoices*, or any of them,) or in the Bill (*or Bills*) of Entry and Account now produced, of the said goods, wares and merchandize, or receive any other Invoice of the same, I will immediately make the same known to the Collector of this Port. So help me God.

(*Signature.*)

Sworn (*or affirmed*) before me, this _____ day of _____ 184 .

(*Signature,*)

Collector.

(*or as the case may be.*)

OATH OR AFFIRMATION of an OWNER when the Goods have not been actually purchased.

Province of Canada.

Port of _____

I, (*name*) do solemnly and truly swear (*or affirm*) that the Bill (*or Bills*) of Entry now delivered by me to the Collector of _____, contains (*or contain*) a just and true Account of all the goods, wares and merchandize, imported by or consigned to me (*or to name of firm*) in the whereof _____ is Master, (*vary these words as the case may require*), from _____; that the said goods, wares and merchandize, were not actually bought by me (*or us*) or by my (*or our*) Agent, in the ordinary mode of bargain and sale, but that, nevertheless, the Invoice (*or Invoices*), which I now produce contains (*or contain*) a just and faithful valuation of the same, at their fair market cash value, in the principal markets in (*insert the name of the country whence the goods were exported to this Province, or use such other words as will meet the facts*) at the time they were so exported; that I do not know nor believe in the existence of any Invoice or Bill of Lading other than those now produced by me, and that they are in the state in which I (*or we*) actually received them.

And I do further solemnly and truly swear (*or affirm*) that I have not, in the said Bill (*or Bills*) of Entry or Invoice (*or Invoices*) concealed or suppressed any thing whereby Her Majesty the Queen may be defrauded of any part of the duty lawfully due on the said goods, wares and merchandize; and that if at any time hereafter, I discover any error in the said Invoice (*or Invoices*, or any of them) or in the Bill (*or Bills*)

Bills) of Entry, and Account now produced of the said goods, wares and merchandize, or receive any other Invoice of the same, I will immediately make the same known to the Collector of this Port. So help me God.

(Signature,)

Sworn (or affirmed) before me, this day of 184 .

(Signature,)

Collector.

(or as the case may be.)

OATH OF AFFIRMATION OF AN OWNER, CONSIGNEE, IMPORTER OR AGENT, on entering Merchandize without Invoice.

I, (name,) do solemnly, sincerely and truly swear (or affirm) that the Bill (or Bills) of Entry now delivered by me to the Collector of , contains (or contain) a just and true Account of all the goods, wares and merchandize imported for me or on my account, or on account of any person for whom I am authorized to enter the same, in the whereof is Master, from , (vary these words as the case may require); that the Bill of Lading now produced by me is the true, genuine and only Bill of Lading by me received of the said goods, wares and merchandize, and that I have not received, and do not know of any Invoice or other Account whatever having been received of the said goods, wares and merchandize. I do further swear (or affirm) that if I hereafter discover any other or greater quantity of goods, wares or merchandize than is contained in the Entry aforesaid, or shall receive any Invoice of the whole or any part thereof, I will immediately, and without delay, report the same to the Collector of this Port. I also swear (or affirm) that nothing has been concealed or suppressed in the Entry aforesaid whereby to avoid the just payment of the duties imposed by the laws of this Province of Canada; and that all matters are justly and truly expressed therein according to the best of my knowledge and belief. So help me God.

(Signature.)

Sworn (or affirmed) before me, this day of 184 .

(Signature,)

Collector.

(or as the case may be.)

OATH of an OWNER residing out of this Province, when there is no Owner in the Province who can attest the Invoice, or when the owner is the manufacturer or concerned in the manufacture of the goods.

I, (name) do solemnly and truly swear (or affirm) that the Invoice hereunto annexed and signed by me is the true and only Invoice of the goods, wares and merchandize therein mentioned shipped, (or intended to be shipped) by me (or by, name of firm) in the whereof is Master, (vary these words as the case may require,) and consigned to at in the Province of Canada; that I have not sent and will

will

will not send, nor do I know or believe in the existence of any other Invoice of the said goods, wares and merchandize; that the said Invoice contains a just and faithful valuation of the said goods, wares and merchandize at their fair market cash value, in the principal markets in (*insert the name of the country whence the goods were exported to this Province, or use such other words as will meet the facts*) at the time when they were so exported, (*or when the same were so shipped, or at this time,*) and that the same were not actually purchased by me (*or us*) or on my (*or our*) account,—*or* (that the said Invoice contains a just and faithful Account of the actual cost of the said goods, wares and merchandize and of their fair market value in the principal markets in (*insert the name of the country whence the goods were exported to this Province, or use such other words as will meet the facts*) at the time when the same were purchased for my (*or our*) account; and that nothing has been concealed or suppressed in the said Invoice, or otherwise, whereby Her Majesty the Queen of Great Britain and Ireland may be defrauded of any part of the duty lawfully to become due in Canada on the said goods, wares and merchandize. So help me God.

(*Signature.*)

Sworn (*or affirmed*) before me, this day of 184 .
(*Signature,*)

Collector.

or

British Consul at
(*or as the case may be.*)

The wording of any of these Oaths or Affirmations may be changed to suit the circumstances of the case, and the Oath or Affirmation will be sufficient, provided the requisite facts are distinctly stated and sworn to or affirmed.

APPOINTMENT OF AN ATTORNEY OR AGENT.

Province of Canada.

Know all men by these presents that we A. B. and Co. have appointed and do hereby appoint C. D. of (*residence, profession, &c.*) to be our true and lawful Attorney and Agent, for us and in our name to transact all business which we may have with the Collector at the Port of or relating to the Department of the Customs at the said Port, and to execute, sign, seal and deliver for us and in our name all Bonds, Entries and other Instruments in writing relating to any such business as aforesaid, hereby ratifying and confirming all that our said Attorney and Agent shall do in the behalf aforesaid. In witness whereof we have signed these presents, and sealed and delivered the same as our Act and Deed, at in the said Province, this day of one thousand eight hundred and

A. B. & Co. [L. S.]

by
one of the partners in the said firm.

In presence of E. F.
and G. H.

CAP. II.

An Act to amend and to render permanent as amended the Act for the Management of the Customs.

[25th April, 1849.]

Preamble.
8 Vict. c. 4.

Section 3 of
8 Vict. c. 4
amended, and
the Act as
amended made
permanent.

WHEREAS it is expedient to amend and to render permanent as amended the Act passed in the eighth year of Her Majesty's Reign, and intituled, *An Act to provide for the Management of the Customs and of matters relative to the collection of the Provincial Revenue*: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That for and notwithstanding any thing in the third section or in any other part of the Act cited in the Preamble to this Act, it shall be lawful for the Governor in Council to grant to the Collectors of Customs at the ports of Quebec and Montreal, respectively, such salary not exceeding seven hundred and fifty pounds currency per annum, as to the said Governor in Council shall seem reasonable and necessary; and that the said Act as hereby amended shall be and is hereby made permanent, and shall remain in force until repealed by competent authority; anything therein contained to the contrary notwithstanding.

CAP. III.

An Act to provide for the free admission into Canada, of certain Articles of the growth or production of the United States of America, on certain conditions therein mentioned.

[25th April, 1849.]

Preamble.

When certain
articles from
Canada are
admitted duty
free in the U.
S., similar ar-
ticles from U.
S. shall be ad-
mitted free
here.

WHEREAS it is desirable to provide for the free admission into Canada of certain Articles of the growth or production of the United States of America mentioned in the Schedule to this Act annexed, whenever similar Articles the growth or production of Canada shall be admitted without duty into the said States: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That whenever under any law of the United States of America, the Articles enumerated in the Schedule to this Act annexed, being the growth or production of this Province, shall be admitted free of duty into the said United States of America, then similar Articles, being the growth or production of the said United States, shall be admitted into this Province free of duty when imported direct from the said United States.

II. And be it enacted, That this Act shall come into full force and effect upon, from and after, and not before, such day as shall be appointed for that purpose in any Proclamation to be issued by the Governor in Council, proclaiming Her Majesty's Assent to this Act, by and with the advice of Her Privy Council, and appointing the day upon, from and after which this Act shall come into full force and effect.

When this Act shall come into force.

SCHEDULE.

Grain and Breadstuffs, of all kinds, Vegetables, Fruits, Seeds, Animals, Hides, Wool, Butter, Cheese, Tallow, Horns, salted and fresh Meats, Ores of all kinds of Metals, Ashes, Timber, Staves, Wood and Lumber of all kinds.

CAP. IV.

An Act to make better provision with regard to the Tolls to be levied on the Public Provincial Works, and for other purposes relative to the said Works.

[25th April, 1849.]

WHEREAS it is expedient to make such provision with regard to the Tolls to be levied on the several Public Works of this Province, as will enable the Governor in Council so to regulate the said Tolls as to simplify the calculation and collection thereof and afford every possible facility to the public, and at the same time to ensure an adequate return from the said works : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the Schedules annexed to the Act passed in the ninth year of Her Majesty's Reign, intituled, *An Act to amend the Law constituting the Board of Works*, and marked respectively B. 1, B. 2, B. 3, B. 4, B. 5, and B. 6, and being tables of the maximum Tolls to be levied on the several Public Works therein mentioned, shall be and are hereby repealed, as shall be also so much of the said Act, or of the Act passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, and intituled, *An Act to amend the Act intituled, An Act to amend the Law constituting the Board of Works*, as requires that the Tolls levied on the said Works under any Order of the Governor in Council, should be governed by or based upon the tables in the said Schedules.

Preamble.

The Schedules of maximum Tolls annexed to 9 Vict. c. 37, repealed.

II. And be it enacted, That the Schedule to this Act annexed, shall be and is hereby substituted in the place and stead of the Schedules to the Act first above mentioned which are hereby repealed, and the said Act and the Act secondly above mentioned, shall be construed and have effect as if the said Schedule to this Act had been annexed to

The Schedule to this Act substituted for the said Tables of maximum

to

Tolls annexed to 9 Vic. c. 37.

to the said Act firstly above mentioned and referred to in the said Acts or either of them, instead of the said Schedules hereby repealed: and all the provisions of the said Acts shall apply to the Tolls mentioned in the Schedule to this Act as being payable on goods and merchandize brought down the River St. Lawrence, past any section of the Canals between Montreal and Kingston.

Fractions how computed.

Proviso: Tolls may be modified provided the maximum rates be not exceeded.

III. And be it enacted, That any fraction of a ton or other quantity mentioned in the said Schedule to this Act as that on which the Tolls to be levied on the said Works are to be calculated, may be considered as a whole ton or quantity; and that provided the rates mentioned in the Schedule to this Act be not exceeded, the Tolls may be varied or exemptions from Toll allowed as to particular Works, or sections or portions of Works, or as to particular classes, or kinds of vessels, goods, animals, carriages or passengers, in such manner as the Governor in Council may from time to time deem most for the public good.

As to the works not included in the Schedule to this Act.

IV. And be it enacted, That on or for the use of any Public Work not included in the Schedule to this Act annexed, or which shall be hereafter constructed or completed, such Tolls may be levied as the Governor in Council shall deem expedient, and as shall in his opinion be proportionate to the Tolls levied at the same period, under the authority of this or any other Act, upon Public Works most nearly similar to it.

Road from Dundas to Waterloo placed under Commissioners of Public Works.

V. And be it enacted, That the Road from the Village of Dundas to the Township of Waterloo mentioned in the Act of the Legislature of Upper Canada passed in the seventh year of the Reign of His late Majesty King William the Fourth, and intituled, *An Act to authorize the construction of a Macadamized Road from Dundas to Waterloo, in the Gore District*, shall be and the said Road is hereby vested in Her Majesty, Her Heirs and Successors, and shall be under the control of the Commissioners of Public Works for the purposes of the Act herein first above mentioned, all the provisions whereof and of the Act herein secondly above mentioned and of this Act, shall apply to the said Road as if it had been inserted in the Schedule A to the Act herein first above mentioned.

When this Act shall take effect.

VI. And be it enacted, That the foregoing provisions of this Act shall have force and effect upon, from and after the first day of May next, and not before; except that the Governor in Council may before the said day enact regulations for ascertaining the Tolls to be taken under this Act and the Acts aforesaid, on any or all of the Public Works of this Province, upon, from and after the said day, upon, from and after which, and not before, such regulations shall be enacted to take effect.

SCHEDULE.

TABLE OF THE MAXIMUM TOLLS TO BE LEVIED UNDER THE AUTHORITY OF THIS ACT, AND OF THE ACTS THEREIN MENTIONED.

	£	s.	d.
On Goods and Merchandize passing through all the Canals between Montreal and Kingston, upwards, per ton weight.....	0	7	6
The same, downwards.....	0	5	0

On

	£	s.	d.
On Steamboats or other Vessels, passing through the same, upwards, per ton burthen.....	0	0	3
Do do do downwards, per ton burthen.....	0	0	1½
On Passengers of or over 21 years of age, upwards, each.....	0	0	6
Do do do downwards, each.....	0	0	3
Do do under the said age, upwards, each.....	0	0	3
Do do do downwards, each.....	0	0	1½
The same Tolls being payable on Goods and Merchandize brought down the River Saint Lawrence past any section or sections of the said Canals, as if they had been brought through the same, excepting always timber brought down in rafts or cribs, and having been cut upon the banks of the Saint Lawrence or Ottawa Rivers, or of the Bay of Quinté, or of the streams running into either of the said Rivers or Bay.			
On Goods and Merchandize passing through the Welland Canal, upwards or downwards, per ton weight.....	0	7	6
On Steamboats or other Vessels passing through the same, upwards or downwards, per ton burthen.....	0	0	1½
On Passengers of or over 21 years of age, upwards or downwards, each..	0	0	6
Do do under 21 years of age, upwards or downwards, each..	0	0	3
On Goods and Merchandize passing through the Chambly Canal, upwards or downwards, per ton weight.....	0	2	6
On Steamboats or other Vessels passing through the same, upwards or downwards, per ton burthen.....	0	0	1½
On Passengers of or over 21 years of age, upwards or downwards, each..	0	0	6
Do do under 21 years of age, do do each..	0	0	3
And on Goods, Vessels, or Passengers passing through any portion or section of the said Canals, respectively, such portions of the above rates as the Governor in Council shall deem expedient.			
On Goods and Merchandize, Vessels and Passengers passing through any of the Locks mentioned in the Schedule A, annexed to the said Act passed in the ninth year of Her Majesty's Reign, and intituled, <i>An Act to amend the law constituting the Board of Works</i> , or hereafter to be constructed, and not being on any of the Canals aforesaid, per ton weight, upwards or downwards, at each Lock.....	0	0	3
On Steamboats and other Vessels, upwards or downwards, per ton burthen	0	0	1
On Passengers of or over 21 years of age, upwards or downwards, each..	0	0	4
Do do under 21 years of age, upwards or downwards, each..	0	0	2
For the use of the several Public Harbours mentioned in the said Schedule A.			
For each ton weight of Goods or Merchandize landed or shipped.....	0	5	0
On Steamboats and other Vessels using any such Harbour, per ton burthen, per diem.....	0	0	0¼
On Passengers embarked or disembarked, of or over 21 years of age, each	0	0	1
Do do do under 21 years of age, each.....	0	0	0½
For the use of the several Slides mentioned in the said Schedule A.			
For each Crib of hard wood Timber, Masts, Staves or Sawed Lumber...	0	12	6
For each Crib of other Timber or of Saw Logs.....	0	10	0

On

	£	s.	d.
On the several Public Roads mentioned in the said Schedule A, at each gate thereon, and for each time of passing such gate.			
For each vehicle of any kind and one horse or other beast of draught and not more than ten hundred weight of load, (each additional ten hundred weight being reckoned as one horse, and any fraction of ten hundred weight as ten hundred weight).....	0	0	6
For each additional horse or beast of draught attached to such vehicle, or saddle horse, or other beast and its rider.....	0	3	2
For each horse not attached to any vehicle and without a rider, ox, cow, or head of cattle, or non-enumerated quadruped.....	0	0	1
For each sheep, pig, or goat.....	0	0	0½
On the several Public Bridges mentioned in the said Schedule A, and for each time of passing over the same.			
The same Tolls as on the Public Roads aforesaid for animals and carriages, and for each foot passenger.....	0	0	1

CAP. V.

An Act for the better management of the Public Debt, Accounts, Revenue and Property.

[25th April, 1849.]

Preamble.

WHEREAS it is expedient to make better provision for the management of the Public Debt of this Province, and for keeping the Public Accounts thereof in a clear and satisfactory manner, and for the regular appropriation of a portion of the Annual Revenue to the Sinking Fund for the redemption of the Debt, and for enabling the Provincial Government to relinquish the charge of managing various Local Works, which at present produce little revenue, and which could be more conveniently and economically managed by the Municipal Councils, or other Local Corporations or Authorities, or by Incorporated Companies: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall be lawful for the Governor of this Province, by and with the advice of the Executive Council thereof, from time to time, and as the interests of the Public Service may require, to redeem or to purchase on account of the Province, all or any of the then outstanding Debentures constituting the Public Debt of the Province of Canada, or of either of the late Provinces of Lower or Upper Canada, or all or any of the Debentures issued by Commissioners or other Public Officers, under the authority of the Legislatures of either of the late Provinces of Upper or Lower Canada, or of the Legislature of Canada, the interest or principal of which Debentures is made a charge on the Consolidated Revenue Fund of this Province, and to issue new Debentures to an amount not exceeding that of the Debentures so redeemed or purchased, or it shall be lawful for the said Governor in Council

Governor in Council may cause debentures to be redeemed and new debentures for the same or a less amount to be issued, or may arrange for the exchange of outstanding debentures for new ones.

Council to arrange with the holders of any such Debentures as are hereinbefore described to accept in lieu thereof new Debentures, which the said Governor in Council is hereby authorized to cause to be issued, and the principal or interest whereof shall be respectively payable out of the Consolidated Revenue Fund of this Province at such times as the said Governor in Council may direct; and all Debentures authorized by this Act may be made payable in Sterling Money of Great Britain or in the Currency of this Province, and may be made payable, as may also the interest thereon, at such place either within or without this Province as the said Governor in Council may direct, and the interest on such Debentures may be fixed at such rate not exceeding the then legal rate, as the said Governor in Council may direct; Provided always, That nothing in this Act shall be construed to authorize the Governor in Council to increase the aggregate amount of the Public Debt of the Province without the authority of the Provincial Parliament: but this shall not be construed to prevent the issue of Debentures, as aforesaid, for the purpose of applying the proceeds thereof to the purchase or redemption of other Debentures.

Debentures may be payable in currency or sterling, &c.

Rate of interest.

Proviso: total debt not to be increased.

II. And be it enacted, That of the Debentures which the Governor in Council is or may be authorized to cause to be issued under this or any other Act passed or to be passed, a sum not exceeding two hundred and fifty thousand pounds, currency, may be issued in Debentures being each for a sum less than ten pounds, currency, and that such Debentures may be made payable on demand or at any time after date, and with or without interest, and may be receivable in payment of monies payable to the Provincial Government generally or in payment of such duties or dues, and by such Officers or Departments, and upon such terms and conditions as the Governor in Council shall from time to time appoint, and being so received, may be re-issued or may be cancelled and others issued in their stead; Provided that the total amount of such Debentures as aforesaid outstanding at any one time, shall not exceed the said sum of two hundred and fifty thousand pounds, and that the total amount of all Debentures including those mentioned in this Section shall not at any time exceed the amount then authorized by law.

Limitation of the Amount—two hundred and fifty thousand pounds.
Ten pound Debentures.

May be re-issued or cancelled.

III. And whereas it appears that owing to the pressure of just demands upon the Provincial Government, which the funds in the public chest were insufficient to meet, Debentures of the description mentioned in the next preceding Section have been issued under the authority of the Governor in Council, since the first day of July, one thousand eight hundred and forty-eight, and have under the said authority been received in payment of duties and of other monies payable to the Provincial Government, and being so received have been cancelled and others have been issued in their stead, but the total amount of such Debentures outstanding at any one time has not exceeded the sum of one hundred and twenty-five thousand pounds, and the total amount of all Debentures outstanding has never exceeded the amount authorized by law: And whereas the exigencies of the public service are such as it may be necessary for the preservation of the public faith, that the course adopted as aforesaid should be continued until the Provincial Parliament shall have made provision in this behalf; And whereas the course adopted by the Provincial Government, although justified by the necessity of the case, is not within the letter of the law, and it is therefore expedient to indemnify all persons who may have been concerned in the adoption thereof: Be it therefore enacted, That all Debentures of the description mentioned in the next preceding Section issued or received in payment as aforesaid, since the said first day of July,

Indemnity clause.

July, one thousand eight hundred and forty-eight, and which if this Act had been then in force would have been lawfully issued and received in payment as aforesaid, shall be held to be lawfully issued and received, and all officers and persons having issued or received or having been concerned in issuing or receiving the same, are hereby indemnified and saved harmless from all suits, proceedings or inquiries to which without this Act they might be subject; Provided the total amount of such Debentures as aforesaid outstanding at any one time before the passing of this Act, shall not have exceeded the sum of one hundred and twenty-five thousand pounds, and that the total amount of all Debentures outstanding at any one time before the passing of this Act, shall not have exceeded the amount then authorized by law, and not otherwise.

Terminable annuities may be granted.

IV. And be it enacted, That it shall be lawful for the said Governor in Council to direct the proper Officers to grant Terminable Annuities chargeable on the Consolidated Revenue Fund of this Province, such annuities being granted on terms in accordance with the most approved English Tables, and based on a rate of interest not exceeding six per centum per annum, and to apply the proceeds of such grants to the extinction of the Public Debt.

Except £20,000, all the yearly net revenue from public works shall go to the Sinking Fund. How to be invested.

Proviso: Further sums to be applied if practicable.

V. And be it enacted, That from and after the passing of this Act, the entire Net Revenue derived from the Tolls on Public Works, after deducting therefrom the sum of Twenty Thousand Pounds, which shall be annually placed at the credit of the Consolidated Revenue Fund and shall form part thereof, shall be carried to the credit of the Sinking Fund, and shall form part thereof; and it shall be lawful for the said Governor in Council to direct the investment of all sums forming part of the Sinking Fund, either in the Public Securities of this Province, or in the British Funds: Provided firstly, that it shall be lawful for the said Governor in Council, from time to time, to direct the transfer from the Consolidated Revenue Fund to the Sinking Fund, of any unappropriated Revenue which it may at the close of each year be found practicable to apply towards the extinction of the Public Debt, and the sums so transferred shall be invested in the Securities hereinbefore mentioned: Provided secondly, that nothing in this Section shall be construed to repeal or affect the provisions of the Act passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, and intituled, *An Act to facilitate the issue of Debentures, and for other purposes therein mentioned.*

Regulations as to public debt to be made—Fiscal Agent may be employed, &c.

VI. And be it enacted, That it shall be lawful for the said Governor in Council from time to time to make such Regulations as he may deem necessary for the management of the Public Debt of this Province, and the payment of the interest thereon, and to appoint one or more fiscal Agents of the Province in the City of London, and to agree with them as to the rate of compensation to be allowed them for negotiating Loans, and for paying the interest on the Public Debt, and for other services connected with the management of the said debt, and to pay such compensation out of the Consolidated Revenue Fund.

Provision for meeting any deficiency in the Consolidated R. Fund to meet the charges thereon in any year.

VII. And whereas owing to the fluctuations of Commerce, it may occasionally happen that the Revenue of this Province, consisting principally of Customs Duties, may fall short of the amount anticipated by the Legislature, and that in consequence thereof the Consolidated Revenue Fund may be insufficient to meet the charges placed thereon by law: Be it enacted, That it shall be lawful for the said Governor in Council, from time to time, as the exigencies of the Public Service may require, in consequence of

of the Consolidated Revenue Fund being at the time insufficient to meet the charges placed thereon by law, to direct the proper Officers to effect temporary Loans chargeable on the said Consolidated Revenue Fund, in such manner and form, in such amounts, and payable at such periods, and bearing such rates of interest not exceeding the then legal rate per centum per annum, as the said Governor in Council may direct; Provided always, that such Loans shall not exceed the amount of the deficiencies in the said Consolidated Revenue Fund to meet the charges placed thereon by law.

Proviso.

VIII. And whereas various appropriations have been made by Parliament since the period of the Reunion of the late Provinces of Upper and Lower Canada, for the construction of Public Works, without any authority having been given to raise by loan the sums so granted, and in consequence of such omission the said appropriations have been paid out of or held to be a charge upon the Consolidated Revenue Fund, thereby causing serious derangement to the Finances of the Province: Be it enacted, That it shall be lawful for the said Governor in Council, to direct the proper Officer to ascertain as accurately as possible the amount of the appropriations for permanent works which have been paid out of the Consolidated Revenue Fund, and to credit the said Fund for the aggregate amount of the said payments, charging the same to the respective public works; and it shall be lawful for the said Governor in Council to issue Debentures for such portion of the said appropriations as may be necessary to enable the Consolidated Revenue Fund to meet the charges placed upon it by law, and which the surplus and unappropriated Revenues of the Province paid into the Provincial Chest prior to the first of January, one thousand eight hundred and forty-nine, have been insufficient to cover and to cause a separate statement to be inserted in the then next Public Accounts of whatever may have been done in the behalf aforesaid: Provided always, that such Debentures shall not be issued for sums less than Ten Pounds Currency, each, and shall not in the whole exceed the sum of Two Hundred Thousand Pounds.

Recital.

Amount charged on C. R. Fund for permanent works, to be ascertained, &c.

And Debentures issued for the amount.

Proviso:

IX. And be it enacted, That the Public Accounts of the Province shall be kept by Double Entry in the Offices of the Receiver General, and of the Inspector General of Public Accounts, and an annual statement shall be prepared as soon as practicable after the termination of each fiscal year, exhibiting the state of the Public Debt and the amounts chargeable against each of the Public Works for which any part of the Debt has been contracted, also the state of the Consolidated Revenue Fund and of the various Trusts and Special Funds under the management of the Provincial Government, and such other accounts and matters as may be required to shew what the Liabilities and Assets of the Province really are at the date of such statement.

Mode of keeping the Public Accounts.

X. And in order to simplify the Public Accounts, and to exhibit more clearly the true state of public affairs—Be it enacted, That an Account shall be opened in the Books of the Province, intituled, “Losses by Public Works or otherwise,” which shall be debited with such sums as have been expended on works which are wholly unproductive, and which shall have been altogether abandoned, and also with the balance due to the Province by the late Firm of Thomas Wilson and Company, of London, and also with such balances due by Public Accountants or Incorporated Companies as it shall be deemed impossible to collect, owing to the insolvency of the Debtors or from other causes, and also with any balance which may be found at the debit of the old Sterling Debenture Account after computing the amount of such

Account for “Losses” to be opened, and with what sums the same shall be debited.

Debentures

Debentures in Currency, at the legal par of Exchange; and also with the amount of all Bonds given for Customs or Timber Duties; which, owing to the insolvency of the Signers of such Bonds it shall be deemed impossible to collect: and with the amount of all other sums advanced or expended by or due to the Province, which shall be deemed totally lost: Provided always, that a separate statement of all entries on the Debtor side of the said Account, shall be annually submitted to Parliament with the Public Accounts.

Proviso.

Balances of certain accounts to be transferred.

XI. And be it enacted, That the Balance which appears at the Debit of the Account intituled "Civil List Schedule A," shall be transferred to the Debit of the Consolidated Revenue Fund, and the Balance which appears at the Credit of the Account intituled "Civil List Schedule B," shall be transferred to the Credit of the said Consolidated Revenue Fund.

Governor in Council may arrange for the transfer of certain Public Works to the local authorities.

XII. And be it enacted, That it shall be lawful for the said Governor in Council to enter into arrangements with any of the Municipal or District Councils, or other Local Corporations or Authorities, or with any Company in Lower or Upper Canada, incorporated for the purpose of constructing or holding such works, or works of like nature in the same section of the Province, for the transfer to them of any of the Public Roads, Harbours, Bridges or Public Buildings, which it may be found more convenient to place under the management of such local Authorities or Companies, and on the completion of such arrangements, to grant (and by so granting, to transfer and convey) for ever, or for any term of years, all or any of such Roads, Harbours, Bridges or Public Buildings, to the District or Municipal Council, or other Local Authority or Company with whom such arrangement may have been made (hereinafter called the Grantee,) and upon such terms and conditions as may have been agreed upon, and that all monies payable to the Province under the terms of any such grant, shall be carried to the credit of the Sinking Fund and form part thereof.

Transfer to be effected by order in council.

What provisions such order in Council may contain.

XIII. And be it enacted, That any such grant, as aforesaid, of any of the said Public Works, may be made by Order of the Governor in Council, published in the Canada Gazette; and by such Order, any or all of the powers and rights vested in the Crown or in the Governor in Council, or in any Officer or Department of the Provincial Government, with regard to the Public Work thereby granted, may be granted to and vested in the Grantee to whom the Public Work itself is thereby granted; and such Order in Council may contain such conditions, clauses, restrictions and limitations as may be agreed upon as aforesaid, which, as well as all the provisions of such Order in Council, shall, (in so far as they shall not be inconsistent with this Act, and shall not purport to grant any right or power which shall not be immediately before the making of such Order in Council vested in the Crown or in the Governor in Council, or in some Officer or Department of the Provincial Government,) have full force and shall be obeyed, as if they had been contained in this Act, and had made part of the enactments thereof; and any such Order in Council may, with the consent of the Grantee, be revoked or amended by any subsequent Order in Council published as aforesaid; and a copy of the Canada Gazette containing any such Order in Council shall be evidence thereof, and the consent of the Grantee thereto shall be presumed unless disputed by such Grantee, and if disputed, shall be proved by any copy of such Order in Council on which the consent of the Grantee thereto shall be written and attested by such signature or seal, or both, as would be sufficient to make any Deed or Agreement

Revocation or alteration thereof allowed with consent of grantee, &c. Evidence of such order. Proviso as to penalties for

Agreement the Deed or Agreement of such Grantee: Provided always, that nothing in this Act or in any Order in Council to be made under it, shall be construed to exempt any person from any punishment or penalty imposed by any Act or Law or under the authority of any Act or Law, for any offence relative to any Public Work or Works, but so much of any such penalty as would otherwise belong to the Crown, shall, if it be so provided in the Order in Council, belong to the Grantee under such Order, otherwise it shall belong to the Crown, but this shall not prevent the repeal or alteration by the Grantee, of any such penalty imposed by the Governor in Council under the authority of any Act, if the power to repeal or alter the same be transferred in the manner aforesaid to such Grantee, or by the Governor in Council with the consent of the Grantee, if such power be not so transferred.

offences relative to Public Works.

XIV. And be it enacted, That the due application of all monies expended under the authority of this Act shall be accounted for to Her Majesty, Her Heirs and Successors through the Lords Commissioners of Her Majesty's Treasury for the time being, in such manner and form as Her Majesty, Her Heirs and Successors shall direct.

Accounting clause.

C A P . VI.

An Act to repeal certain Acts therein mentioned, and to make further provision respecting Emigrants.

[25th April, 1849.]

WHEREAS it is necessary to repeal certain Acts hereinafter mentioned, and to make such further provision with reference to Emigration as will tend to prevent the introduction into this Province of a Pauper Emigration labouring under disease, and at the same time to encourage the introduction of a more healthy and useful class of Emigrants: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the Act of the Legislature of this Province, passed in the Session held in the fourth and fifth years of Her Majesty's Reign, and intituled, *An Act to create a Fund for defraying the expense of enabling Indigent Emigrants to proceed to their place of destination, and of supporting them until they can procure employment*; and the Act of the said Legislature, passed in the eleventh year of Her Majesty's Reign, and intituled, *An Act to make better provision with respect to Emigrants, and for defraying the expenses of supporting Indigent Emigrants, and of forwarding them to their place of destination, and to amend the Act therein mentioned*, be, and the same are hereby repealed.

Preamble.

Repeal of the Acts 4 and 5 Vict. c. 13, and 11 Vict. c. 1.

II. And be it enacted, That there shall be raised, levied and collected, a rate or duty, payable in the manner hereinafter prescribed, by the master or person in command of every vessel arriving in the Port of Quebec or in the Port of Montreal from any Port of the United Kingdom or of any other part of Europe, with Passengers or Emigrants therefrom,

A rate of duty to be paid on each Emigrant or Passenger coming from

Europe into
this Province
by sea.

By whom pay-
able.

Proviso: chil-
dren under 12
months ex-
empted.

Proviso:
Drafts drawn
by order of the
Government
to be taken in
payment of the
duty.

therefrom, and such rate or duty shall be seven shillings and six pence currency for every Adult Passenger or Emigrant, and five shillings for every other Passenger or Emigrant between the ages of five and fifteen years who shall have embarked from any Port in the United Kingdom under the sanction of Her Majesty's Government ascertained by a certificate from one of the Officers of Her Majesty's Customs at the Port at which such vessel shall have cleared, and ten shillings currency for every Passenger or Emigrant who shall have embarked without such sanction; and such rate or duty shall be paid by the master or person in command of such vessel or by some person on his behalf, to the Collector or other Chief Officer of the Customs at the Port at which such vessel shall be first entered, and at the time of making such first entry, which shall contain on the face of it the number of passengers actually on board the vessel; and no such entry shall be deemed to have been validly made, or to have any legal effect whatsoever, unless such rates or duties be so paid as aforesaid: Provided always, that no child under the age of five years shall be reckoned among the number of Passengers; and provided also, that any draft, order or other document made or signed by any person in the United Kingdom aforesaid duly empowered to that effect by Her Majesty's Government, and directed to Her Majesty's Commissary General, or other Officer having charge of the Military Chest in this Province, and authorizing the payment to the Collector or Chief Officer of the Customs aforesaid, of the rate or duty which would otherwise be payable by the master of any vessel for any Emigrant or any number of Emigrants on board such vessel, shall be taken and accepted by the Collector or Chief Officer as payment of the rate or duty payable on such Emigrant or Emigrants, and the sum mentioned in such order shall thereafter be received by such Collector or Chief Officer and paid over and applied in the same manner as other money raised under the authority of this Act.

Increased rate,
to be payable
for Passengers
not on the
Ship's Passen-
ger List.

III. And whereas masters of vessels are in the practice of embarking Passengers after the vessel has been cleared and examined by the proper Officer at the Port of departure, and without delivering lists of such additional Passengers to some Officer to whom by law the same ought to be delivered; for the prevention and punishment of such practice, Be it enacted, That for every Passenger not included in the list of Passengers delivered to the Collector or Officer of Her Majesty's Customs at the Port of Departure, or at the Port where such additional Passenger may have been embarked, or at the Port at which such vessel may have touched after the embarkation of such Passenger, the master or person in command of such vessel shall, in addition to the rate or duty payable as aforesaid, and at the same time and under the same penalties, pay to the Collector or Chief Officer of the Customs at the Port of Quebec or Montreal, at whichever the said vessel shall be first entered, the sum of Forty shillings currency, for each Passenger so embarked as aforesaid, and not included in one of the said lists.

Passengers not
to leave the
Ship until the
Duty is paid.

IV. And be it enacted, That no master or person having the command of any vessel arriving in either of the Ports last mentioned, shall permit any Passenger to leave such vessel, until he shall have delivered to the Collector or other Chief Officer of Her Majesty's Customs at such Port, a correct list of all Passengers on board of such vessel at the time of her arrival at such Port, nor until such list shall have been certified to be correct, and a certificate of such correctness and a permission to allow his Passengers to leave the vessel, and a receipt for the duties payable by him under the provisions of this Act, shall have been given to him by the said Collector or other Chief Officer, under a penalty of not less than Five pounds and not exceeding Twenty-five pounds currency,

Penalty for
contravention.

currency, to be paid by such master or person having the command of the vessel, for every Passenger leaving the same contrary to the provisions of this Act; Provided always, that the said list shall contain the name of each head of a family being a Passenger on board such vessel, his profession or trade, his country and the place of his destination, and the number of grown persons and children belonging to his family on board such vessel, and the name of each person not belonging to any family, with the like particulars of country, trade, profession and destination.

Proviso: List of passengers to comprise certain particulars.

V. And be it enacted, That in addition to the particulars hereinbefore required in the list of Passengers to be delivered on each voyage by the master of any vessel carrying Passengers and arriving in either of the Ports of Quebec or Montreal, to the Collector or Chief Officer of Her Majesty's Customs at such Port, the master shall report in writing to the said Collector or Chief Officer, the name and age of all Passengers embarked on board of such vessel on such voyage, who shall be lunatic, idiotic, deaf and dumb, blind or infirm, stating also whether they are accompanied by relatives likely to be able to support them; and in case any such master or person having the command of any such vessel shall omit or neglect to report the particulars herein specified, or shall make any false report in any such particulars, he shall incur a penalty of not less than Five pounds and not exceeding Twenty-five pounds currency, for every such Passenger in regard to whom any such omission or neglect shall have occurred, or any such false report or statement shall be made, for which the owner or owners of every such vessel shall also be liable jointly and severally, and which may be sued for and recovered as hereinafter provided.

Certain further particulars, as to passengers, likely to become chargeable upon the public.

Penalty for omitting such particulars and stating them falsely, &c.

Who shall be liable for penalty.

VI. Provided always and be it enacted, That nothing in this Act contained shall prevent the master or person having the command of such vessel from permitting any Passenger to leave the vessel at the request of such Passenger before the arrival of the vessel in the harbour of Quebec, but in every such case, the names of the passengers who shall so leave shall be entered in the manifest on the list of Emigrants made out at the time of the clearing of the vessel from the United Kingdom or other part of Europe as aforesaid, and shall be certified under the signatures of the Passengers so leaving the vessel; and if the number of Passengers remaining on board on the arrival of the vessel in the Harbour of Quebec do not correspond with that mentioned in such manifest, after deducting the number who shall have so left the vessel, the master or person having the command of such vessel shall incur a penalty of Five pounds currency for each Passenger not found on board or entered on the manifest as having left the vessel as aforesaid.

Passengers may be allowed to leave the ship at their own request on certain conditions.

Penalty for contravention.

VII. And be it enacted, That the said report shall further contain the name, age and last place of residence of any person who may have died during the passage of such vessel, and shall specify whether such passenger was accompanied by relatives, or other persons, and the names of such relatives or other persons, who were entitled to take charge of the monies, goods and effects which may have been left by such passenger, and if there shall have been no such relatives or other persons entitled to take charge of the same, then the said report shall fully designate the quantity and description of such property, whether money or otherwise, which shall have been left by such Passenger, and the said master or person in command of any such vessel shall pay over and fully account for the same, to the Collector or Chief Officer of Customs for the Port at which the said vessel may be entered; and the said Collector or Chief

Further particulars as to persons dying on the passage.

Officer

Certain monies of emigrants to be paid over to the Collector in certain cases.

Penalty for contravention.

Officer of Customs shall thereupon grant unto such master a receipt for all such monies, goods or effects as may be so placed in his hands by such master, which receipts shall contain a full description of the nature or amount thereof; and in case any master or person in command of any such vessel shall neglect or refuse to make such report, or to pay over and account for any such monies, goods or effects, as required by this Section, he shall incur a penalty of not less than Five pounds and not exceeding Two hundred and fifty pounds, currency, for every such case of neglect or refusal.

Passengers entitled to remain on board the ship for a certain time after her arrival.

Penalty for compelling them to leave sooner.

VIII. And be it enacted, That every Passenger on board any vessel arriving in the harbour to which the master or person in command of such vessel shall have engaged to convey him, shall be entitled to remain and keep his baggage on board such vessel, during forty-eight hours after her arrival in such harbour, and every such master who shall compel any Passenger to leave his vessel before the expiration of the said term of forty eight hours, shall incur a penalty of not exceeding Five pounds, currency, for every passenger he shall so compel to leave his vessel, nor shall any master or person in command of such vessel, remove or cause to be removed, before the expiration of the said forty-eight hours, any berthing or accommodation used by his Passengers under a like penalty.

Penalty on Pilots knowing passengers have left the ship, and not reporting the fact.

IX. And be it enacted, That every Pilot who shall have had charge of any vessel having Passengers on board, and shall know that any Passenger has been permitted to leave the vessel, contrary to the provisions of this Act, and shall not within twenty-four hours after the arrival of such vessel in the harbour to which he shall have engaged to pilot her, inform the Collector or other Chief Officer of Her Majesty's Customs at such place, that a Passenger or Passengers has or have been so permitted to leave the vessel, shall incur a penalty not exceeding Five pounds, currency, for every Passenger with respect to whom he shall have wilfully neglected to give such information.

Medical Superintendent to go on board and examine ships and to report certain particulars.

Passengers lunatic, idiotic, &c.

X. And be it enacted, That it shall be the duty of the Medical Superintendent at the Quarantine Establishment in this Province, forthwith after the arrival thereof of any vessel carrying Passengers, to examine into their condition, and for that purpose the said Medical Superintendent, or such other competent person or persons as may be thereunto appointed, shall have authority to go on board and through any such vessel and to inspect the said List of Passengers, and the Bill of Health, Manifest, Log-Book or otherwise of the said vessel, and, if necessary, to take extracts from the same; and if, on examination, there shall be found among such Passengers any lunatic, idiotic, deaf and dumb, blind or infirm person, not belonging to any Emigrant family, and any such person shall, in the opinion of such Medical Superintendent be likely to become permanently a public charge, the said Medical Superintendent shall forthwith report the same officially to the Collector or other Chief Officer of the Customs at the Port of Quebec or of Montreal, at whichever the vessel is first to be entered, who shall require the master of such vessel, in addition to the rate or duty payable for the Passengers generally, to execute jointly and severally with two sufficient sureties, a Bond to Her Majesty in the sum of Seventy-five pounds, currency, for every such passenger so specially reported, conditioned to indemnify and save harmless this Province or any municipality, village, city, town or county, or charitable institution within the same, from any expense or charge which shall or may be incurred, within the space of three years from the execution of the said Bond, for the maintenance and support of any such Passenger;

Master to give security as to such Passengers.

Passenger; and the said sureties shall justify before and to the satisfaction of the said Collector or Chief Officer, and by their oath or affirmation (which such Collector or Officer is hereby authorized to administer) shall satisfy him that they are respectively residents in this Province, and each worth double the amount of the penalty of such Bond over and above all their debts and liabilities, personal and real.

Justification of the sureties.

XI. And be it enacted, That in case any Passenger, for whom any Bond shall have been given as aforesaid, shall, at any time within three years from the execution thereof, become chargeable upon this Province, or upon any municipality, village, city, town, or county, or upon any charitable institution within this Province, the payment of such charge or expense incurred for the maintenance and support of such Passenger shall be provided for out of the monies collected on and under such bond, to the extent of the penalty therein contained, or such portion thereof as shall be required for the payment of such charges or expenses.

Money paid for the support of any such passenger may be recovered under the bond.

XII. And be it enacted, That if the master of any vessel, on board of which such Passenger specially reported as aforesaid, shall have been carried, shall neglect or refuse to execute the said bond, forthwith, after the said ship shall have been reported to the said Collector or Chief Officer, such master shall incur a penalty of One hundred pounds, currency, and the said vessel shall not be cleared on her return voyage until the said Bond shall have been executed, nor until the said penalty shall have been paid, with all costs which shall have been incurred on any prosecution for the recovery thereof.

Penalty on master neither giving the bond nor paying the commutation money.

XIII. And be it enacted, That after the said Bond shall have been executed as aforesaid, the said Collector or Chief Officer shall transmit the same to the Receiver General of this Province, to be by him kept and held, during the said period of three years from the execution of the said Bond, or until the payment of the penalty therein mentioned (if incurred) shall be enforced; and for the purpose of ascertaining the necessity of such enforcement, it shall be the duty of the Chief Emigrant Agents, in Upper and Lower Canada, upon representation made to either of them, as the case may be, in their respective portions of the said Province, to ascertain the right and claim to indemnity for the maintenance and support of any such specially reported Passenger, and to report the same to the Executive Government of this Province, and the said report shall be final and conclusive in the matter, and shall be evidence of the facts therein stated, and the said penalty, or so much thereof as shall be from time to time sufficient to defray the expense incurred for the maintenance and support of any Passenger for whom the said Bond was given as aforesaid, shall be prosecuted for, and recovered by suit or information in Her Majesty's name, in any Court in this Province having jurisdiction in civil cases to the amount for which such suit or information shall be brought.

Bond to be transmitted to Receiver General and kept by him.

A certain duty assigned to the Emigrant Agents in U. C. and L. C.

How the penalty incurred may be recovered.

XIV. And be it enacted, That no person being Medical Superintendent at the said Quarantine Establishment, nor any person thereat employed under him, and remunerated for his services from the public monies of the Province, shall, directly or indirectly, by himself or others, be concerned or have any interest in the said Quarantine Establishment whatever, nor in any public works thereat, nor in any contract relating thereto, nor in vending or furnishing supplies or necessaries of any kind therefor, nor to any Emigrant or Emigrants arriving thereat, nor trade in any respect as such Superintendent,

Medical Superintendent and other quarantine officers to have no interest in any contract, &c., connected with emigration matters.

Superintendent, or as such other Officer thereat, either directly or indirectly, for his or their benefit, under the penalty, in case of contravention hereof, of dismissal from his office or employ, at the said Quarantine Establishment, and of being for ever thereafter incapable of being again employed, and of serving thereat, and that each and every person herein offending, shall moreover be held and taken to be guilty of a misdemeanor, and on conviction thereof, be in the discretion of the Court, liable to punishment by fine, not exceeding One hundred pounds, currency, or imprisonment for any period not exceeding six calendar months.

Passengers to be landed with in certain limits and at certain hours ;

XV. And whereas inconvenience and expense are occasioned by the practice of masters of vessels carrying Passengers anchoring at great distances from the usual landing places in the Port of Quebec, and landing their Passengers at unreasonable hours ; Be it therefore enacted, That all masters of vessels having Passengers on board shall be held, and they are hereby required to land their passengers and their baggage, free of expense to the said Passengers, at the usual public landing places in the said Port of Quebec, and at reasonable hours, not earlier than six of the clock in the morning, and not later than four of the clock in the afternoon ; and such vessels shall, for the purpose of landing their Passengers and baggage, be anchored within the following limits in the said Port, to wit: the whole space of the River Saint Lawrence from the mouth of the River Saint Charles to a line drawn across the said River Saint Lawrence, from the Flag-staff on the Citadel on Cape Diamond, at right angles to the course of the said River, under a penalty of Ten Pounds currency, for any offence against the provisions of this section.

Duties and penalties to be a special lien upon the vessel.
How enforced.

XVI. And be it enacted, That all and every the rates or duties, penalties or forfeitures imposed or declared under the authority of this Act shall be a special lien upon the vessels by reason whereof such monies shall have become payable, and the master whereof shall have become liable in such penalty, and may be enforced and collected by the seizure and sale of the ship, her tackle or furniture, under the warrant or process of the Justices or Court before whom the same may have been sued for and recovered, and shall be preferred to all other liens or hypothecations, except mariners' wages.

To whom monies levied under this Act shall be paid over.

XVII. And be it enacted, That the monies levied under the authority of this Act shall be paid by the Collector or other Chief Officer of the Customs by whom they shall have been received, into the hands of the Receiver General, for the purposes hereinafter mentioned.

For what purposes such monies shall be applied.

XVIII. And be it enacted, That the monies raised, levied and received under the authority of this Act shall be applied by such Officers or persons and under such rules and regulations as the Governor, Lieutenant-Governor or Person administering the Government shall appoint from time to time for that purpose, in defraying the expenses of medical attendance and examination of destitute Emigrants on their arrival.

How penalties under this Act shall be recovered and applied.

XIX. And be it enacted, That all penalties imposed by this Act may be sued for and recovered with costs on oath of one credible witness other than the prosecutor, in a summary manner, before any two Justices of the Peace in the City of Quebec or in the City of Montreal ; and such Justices may commit the offender to the Common Gaol of the District until such penalty and costs shall be paid ; and one moiety of every such penalty shall belong to Her Majesty, Her Heirs and Successors, and shall be paid into the

the hands of the Receiver General to be applied to the purposes to which the other monies levied under the authority of this Act are hereby appropriated, and the other moiety shall belong to the prosecutor.

XX. And be it enacted, That upon complaint being made in any case over which two Justices have jurisdiction as aforesaid, before any one Justice of the Peace, he shall issue a Summons requiring the party offending or complained against to appear on a day and at an hour and place to be named in such Summons, and every such Summons shall be served on the party offending or complained against, or shall be left at his place of residence or business, or on board any vessel to which he may belong; and either upon the appearance or default to appear by the party offending or complained against, it shall be lawful for any two or more Justices to proceed summarily upon the case, and either with or without any written information, and upon proof of the offence or of the complainant's claim, either by confession of the party offending or complained against, or upon the oath of at least one credible witness other than the Prosecutor (which oath such Justices are hereby authorized to administer) it shall be lawful for the Justices to convict the offender, and upon such conviction to order the offender or party complained against, to pay such penalty as is imposed by this Act, according to the nature of the offence, and also to pay the costs attending the information or complaint, and if forthwith upon such order the monies thereby ordered to be paid, be not paid, the same may be levied, together with the costs of the distress and sale, by distress and sale of the goods and chattels of the party ordered to pay such monies, the surplus, if any, to be returned to him upon demand; and any such Justices may issue their warrant accordingly, and may order also such party to be detained and kept in safe custody until return can conveniently be made to such Warrant of Distress, unless such party shall give security to the satisfaction of such Justices for his appearance before them on the day appointed for such return, such day or days not being more than three days from the time of taking such security; but if it shall appear to such Justices by the admission of such party or otherwise, that no sufficient distress can be had whereon to levy the monies so adjudged to be paid, they may, if they think fit, refrain from issuing such Warrant of Distress in such case, or if such Warrant shall have been issued, and upon the return thereof such insufficiency as aforesaid shall be made to appear to the Justices, or to any two or more of such Justices, then such Justices shall, by Warrant, cause the party ordered to pay such monies and costs as aforesaid, to be committed to Gaol, there to remain without bail for any term not exceeding three months, unless such monies and costs ordered to be paid and such costs of distress and sale as aforesaid, be sooner paid and satisfied: Provided always, that such imprisonment in the case of a master of any vessel shall not discharge the said vessel from the lien or liability attached thereto by the provisions of this Act.

Mode of proceeding in cases of contravention of this Act.

What proof shall be sufficient.

Costs allowed.

Penalty how levied.

Detention of the Defendant in certain cases.

He may be committed to Gaol for want of sufficient distress.

Proviso.

Proceedings not to be removed, or quashed for want of form.

Accounting clause.

XXI. And be it enacted, That no conviction or proceeding under this Act shall be quashed for want of form, or be removed by appeal or *certiorari*, or otherwise, into any of Her Majesty's Superior Courts of Record within this Province; and no Warrant of Commitment shall be held void by reason of any defect therein, provided it be thereby alleged that the party has been convicted, and there be a good and valid conviction to sustain the same.

XXII. And be it enacted, That every person to whom shall be entrusted the expenditure of any portion of the monies hereby appropriated, shall make up detailed accounts

accounts of such expenditure, shewing the sum advanced to the accountant, the sum actually expended, the balance (if any) remaining in his hands, and the amount of the monies hereby appropriated to the purpose for which such advance shall have been made, remaining unexpended in the hands of the Receiver General, and that every such account shall be supported by vouchers therein distinctly referred to by numbers corresponding to the numbering of the items in such account, and shall be made up to and closed on the first day of December in each year during which such expenditure shall be made, and shall be attested before a Justice of the Court of Queen's Bench or a Justice of the Peace, and shall be transmitted to the Officer whose duty it shall be to receive such account, within fifteen days next after the expiration of the said period respectively.

Due applica-
tion clause.

XXIII. And be it enacted, That the due application of the monies received for the public uses of the Province under the authority of this Act, shall be accounted for to Her Majesty, Her Heirs and Successors, through the Lords Commissioners of Her Majesty's Treasury for the time being, and in such manner and form as Her Majesty, Her Heirs and Successors shall direct; and that a detailed account of all such monies shall be laid before the several branches of the Provincial Legislature within the first fifteen days of the next session thereof.

Interpretation
clause.

XXIV. And be it enacted, That the word "Master," whenever used in this Act, shall be held to apply to any person in command of a vessel: The word "Vessel" shall include all ships, vessels, or craft of any kind carrying Passengers: The word "Passengers" shall apply to Emigrants usually and commonly known and understood as such, and not to Troops or Military Pensioners and their families who are carried in Transports or at the expense of the Imperial Government: The word "Quarantine" shall apply to Grosse-Isle, or other places at which such Quarantine shall be directed to be performed; and any word importing the singular number shall include a plurality of persons or things, unless there be something in the context inconsistent with such interpretation.

CAP. VII.

An Act to amend the Quarantine Act.

[25th April, 1849.]

Preamble.

WHEREAS it is expedient to amend the Act concerning Quarantine, in the manner hereinafter mentioned: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, "*An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada,*" And it is hereby enacted by the authority of the same, That for and notwithstanding any thing in the tenth section, or in any other part of the Act of the Legislature of Lower Canada, passed in the thirty-fifth year of the Reign of King George the Third, and intituled, "*An Act to oblige Ships and Vessels coming from places infected with the Plague or any Pestilential Fever or Disease to perform Quarantine, and prevent the communication*"

Section 10 of
Act of L. C.
35 Geo. 3. c. 5.
cited and
amended, as
regards the
Passport and
discharge from
Quarantine.

communication thereof in this Province," the Passport and Discharge from Quarantine of Vessels as to which the requirements of the said Act shall have been complied with, may be granted and signed by such person or officer as shall be thereunto authorized and designated by his name or name of office, in any instrument under the hand and seal of the Governor of this Province, or in any Order in Council to be made under the authority of the said Act, and upon such proof before him as shall be required by such instrument or order, and being so granted and signed shall be as valid and effectual as if granted under the hand and seal of the Governor as mentioned in the said Act: and if the proof required by such instrument or order be proof on oath or solemn affirmation, the person or officer before whom the same is required to be made shall have full power to administer such oath or solemn affirmation; and any wilfully false statement therein shall be perjury.

CAP. VIII.

An Act to make provision for the preservation of the Public Health in certain emergencies.

[25th April, 1849.]

WHEREAS it is expedient to make special provision for the protection of the Public Health in cases when the Province shall be visited by epidemic, endemic or contagious diseases, by enabling the Governor of this Province in Council, to issue orders and adopt measures at any time for that purpose; and whereas it is advisable to intrust the selection of the local agents in the execution of such measures to the Municipal bodies in the various localities which may from time to time be interested therein: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That whenever this Province, or any part thereof, or place therein, shall appear to be threatened with any formidable epidemic, endemic or contagious disease, the Governor of this Province may by Proclamation, to be by Him from time to time issued by and with the advice and consent of the Executive Council of this Province, declare this Act to be in force in this Province, or in such part thereof, or place therein as may be mentioned in such Proclamation; and the same shall thereupon become and be in force accordingly: and His Excellency may in like manner from time to time, as to all or any of the parts or places to which any such Proclamation may extend, revoke or renew any such Proclamation; and, subject to revocation and renewal as aforesaid, every such Proclamation shall have effect for six calendar months, or for such shorter period as in such Proclamation shall be expressed.

Preamble.

This Act to be put in force temporarily by Proclamation when the Province is threatened with any formidable epidemic, &c.

II. And be it enacted, That from and after the issuing of any such Proclamation, and whilst the same shall continue in force, the first, second and sixth Sections of the Act of the Legislature of Upper Canada, passed in the fifth year of the Reign of His late Majesty King William the Fourth, intituled, *An Act to promote the Public Health, and to guard against infectious diseases in this Province*, and so much of the fourth section thereof

Act of U. C. 5. W. 4. c. 10. suspended in part as to places affected by such Proclamation.

thereof as provides for the trial and punishment of any person accused of wilfully disobeying or resisting any lawful Order of any Health Officers duly appointed under the said Act, or of wilfully resisting or obstructing such Health Officers in the execution of their duties, shall be and the same are hereby suspended as to every place mentioned in such Proclamation, or being within any part of this Province designated therein or included thereby: Provided always, that any person accused of having wilfully disobeyed or resisted such Order, or resisted, or obstructed such Officer before the issuing of any such Proclamation, may nevertheless be tried and dealt with as if such Proclamation had not been issued.

Proviso.

After issuing such Proclamation, the Governor may appoint a "Central Board of Health."

III. And be it enacted, That from time to time after the issuing of any such Proclamation, and whilst the same shall continue to have effect, it shall be lawful for the Governor of this Province, to appoint by Commission under his Hand and Seal, five persons, to be and to be called "The Central Board of Health," and to have and execute all the powers and duties vested in or imposed on such Board by this Act, and also, such and so many Officers and Servants as he may deem necessary to assist such Board in the execution of its powers and duties; and His Excellency may from time to time at his pleasure remove all or any of the persons so appointed and appoint others in their stead; and the powers and duties vested in or imposed on the said Board by this Act, may be exercised and executed by any three Members thereof; and during any vacancy in the said Board, the continuing Members or Member thereof, may act as if no vacancy had occurred; and every such Commission shall *ipso facto* be revoked or determined by the revocation of the Proclamation under which it issued as to all the parts and places mentioned in such Proclamation, or by the expiration of six calendar months, from the date of such Proclamation, or of such shorter period as may have been expressed in such Proclamation, unless in either case such Proclamation be renewed as to all or some of such parts and places.

Chief Municipal Officer of every place affected by such Proclamation to take steps for constituting a "Local Board of Health."

Who may be Members of Local Boards of Health.

Special meeting for their election to be called within a certain time after written requisition from inhabitant householders.

If no meeting called within the prescribed time—

IV. And be it enacted, That from time to time after the issuing of any such Proclamation, and whilst the same shall continue to have effect, it shall be lawful for the Mayor, Townreeve, or other Head of the Municipal Corporation, Inspecting Trustee or other Chief Municipal Officer, of any and every place mentioned in such Proclamation, or being within any part of this Province designated therein or included thereby, to call a special meeting of the Council or other Municipal Corporation or of the Police Trustees of such place over which he presides, for the purpose of nominating, and such Municipal Corporation or Police Trustees are hereby authorized and required to nominate accordingly not less than three persons, being residents within the limits of their respective jurisdictions, or, in the case of a City, Town or Village, within seven miles thereof, to be and to be called "The Local Board of Health" for such place; and such Mayor, Townreeve, or other Head of such Municipal Corporation, Inspecting Trustee, or other Chief Municipal Officer, is hereby expressly required and enjoined to call such Special Meeting within two days from the receipt of a written requisition to that effect, signed by ten or more inhabitant-householders of the place under the jurisdiction of the body over which he presides, on pain of being personally liable to the penalty hereinafter mentioned; and if at any time after the issuing of any such Proclamation, and whilst the same shall continue to have effect, it shall be certified to the Governor of this Province, by any ten or more inhabitant-householders of any place mentioned in such Proclamation, or being within any part of this Province designated therein, or included thereby, that the Mayor, Townreeve, or other Head of such

such Municipal Corporation, or Inspecting Trustee, or other Chief Municipal Officer of such place, has failed to comply with such requisition as aforesaid, within such time as aforesaid, it shall thereupon become and be lawful for His Excellency in Council, forthwith to appoint not less than three persons resident within the limits of such place, or, in the case of a City, Town or Village, within seven miles thereof, to be and to be called "The Local Board of Health," for such place: Provided always, that every nomination or appointment of a Local Board of Health, under this Act, shall *ipso facto* be revoked or determined by the revocation, as to the place within the limits of which such Local Board shall be authorized to act, or as to any part of this Province in which the same shall be included, or the whole of this Province, as the case may be, of the Proclamation under which such Local Board shall have been nominated or appointed, or by the expiration of six calendar months from the date of such Proclamation, or of such shorter period as may have been expressed in such Proclamation, unless in either case such Proclamation be renewed as to such place, or any part of this Province in which the same shall be included, or the whole of this Province, as the case may be.

The Governor may appoint Local Board.

Proviso.

V. And be it enacted, That the Central Board of Health, or any three or more Members thereof, may from time to time issue such directions or regulations as they shall think fit, for the prevention, as far as possible, or mitigation of such epidemic, endemic or contagious diseases, and revoke, renew, or alter any such directions or regulations, or substitute such new directions and regulations as to them or any three of them may appear expedient; and the said Board may by such directions and regulations provide for the frequent and effectual cleansing of streets, by the Surveyors or Overseers of highways and others intrusted by law with the care and management thereof, or by the owners or occupiers of houses and tenements adjoining thereto; and for the cleansing, purifying, ventilating and disinfecting of houses, dwellings, churches, buildings and places of assembly by the owners and occupiers, and persons having the care and ordering thereof, for the removal of nuisances, for the speedy interment of the dead, and generally for preventing or mitigating such epidemic, endemic or contagious diseases in such manner as to the said Central Board may seem expedient; and the said Central Board may by any such directions and regulations, authorize and require the Local Boards of Health to superintend and see to the execution of any such directions and regulations, and (where it shall appear that there may be default or delay in the execution thereof, by want or neglect of such Surveyors or others intrusted as aforesaid, or by reason of poverty of occupiers, or otherwise,) to execute or aid in executing the same within their respective limits, and to provide for the dispensing of medicines, and for affording to persons afflicted by or threatened with such epidemic, endemic or contagious diseases, such medical aid as may be required, and to do and provide all such acts, matters and things as may be necessary for superintending or aiding in the execution of such directions and regulations, or for executing the same as the case may require; and the said Central Board of Health, may also by any such directions and regulations authorize and require the Local Boards of Health, in all cases in which diseases of a malignant and fatal character, shall be discovered to exist in any dwelling-house or out-house, temporarily occupied as a dwelling, situated in an unhealthy or crowded locality, or being in a neglected or filthy state, in the exercise of a sound discretion, and at the proper costs and charges of such Local Boards of Health, to compel the inhabitants of any such dwelling-house or out-house, to remove therefrom, and to place them in sheds or tents, or other good shelter, in some more salubrious situation, until measures can be taken, by and under the directions of the Local Boards

Central Board of Health may issue regulations and directions for the prevention or mitigation of disease.

Tenor of such directions and regulations.

They may extend to authorizing the removal of parties from their dwellings under certain circumstances, and placing them in sheds or tents.

of

To what places these regulations shall extend;

And how long they shall continue in force.

Members of Local Boards of Health to be called Health Officers.

And may enter dwellings in certain cases.

And call for assistance to enforce obedience to their lawful orders if necessary.

Expenses of Central Board to be defrayed by the Province.

Those of local Boards by the respective localities.

Regulations of Central Board to be sanctioned by the Governor, and published in the Canada Gazette.

Publication to be evidence of sanction, &c.

Proclamations, &c. under this Act, to be laid

of Health, for the immediate cleansing, ventilation, purification and disinfection of the said dwelling-house or out-house; and the directions and regulations to be issued as aforesaid, shall extend to all parts or places, in which this Act shall, for the time being, be put in force under such Proclamations as aforesaid, unless such directions and regulations shall be expressly confined to some of such parts or places, and then to such parts or places as in such directions and regulations shall be specified, and (subject to the power of revocation and alteration herein contained,) shall continue in force so long as this Act shall be in force under such Proclamation, in the parts or places to which such directions and regulations shall under this provision extend.

VI. And be it enacted, That the Members of the said Local Boards of Health shall be called Health Officers, and that any two or more of them acting in the execution of any such directions or regulations as aforesaid, at reasonable times in the day-time, may and they are hereby empowered to enter and inspect any dwelling or premises, if there be ground for believing that any person may have recently died of any such epidemic, endemic, or contagious disease in any such dwelling or premises, or that there is any filth or other matter dangerous to health therein or thereupon, or that necessity may otherwise exist for executing in relation to such dwelling or premises, all or any of such directions and regulations as aforesaid; and in case the owner or occupier of any such dwelling or premises shall neglect or refuse to obey the orders given by such Health Officers, in pursuance of such directions and regulations, it shall be lawful for such Health Officers to call to their assistance all Constables and Peace Officers, and such other persons as they may think fit, and to enter into, and upon such dwelling or premises, and to execute or cause to be executed therein or thereupon such directions and regulations, and to remove therefrom and destroy whatsoever in pursuance of such directions and regulations it may be necessary to remove and destroy, for the preservation of the public health.

VII. And be it enacted, That the expenses incurred by the said Central Board of Health shall be defrayed out of any monies which may from time to time be appropriated by the Provincial Parliament for that purpose from the Consolidated Revenue Fund of this Province; and that the expenses incurred by the said Local Boards of Health in the execution or in superintending the execution of the directions and regulations of the Central Board shall be defrayed and provided for in the same manner and by the same means as any expenses incurred by the Municipal Corporations, Councils, or other Municipal Bodies of or having jurisdiction over the respective places for which such Local Boards of Health shall have been nominated or appointed now are or at any time hereafter may be by law required to be defrayed and provided for.

VIII. And be it enacted, That no direction or regulation of the said Central Board of Health shall have any force or effect until the same shall have been sanctioned and confirmed by the Governor of this Province in Council, and shall thereafter have been published in the Canada Gazette; and every Proclamation of the Governor of this Province in Council under this Act shall also be published in the Canada Gazette; and such publication of any such Proclamation, direction or regulation shall be conclusive evidence of the Proclamation, direction or regulation so published, and of the sanction and confirmation of such direction or regulation as aforesaid, and of the dates thereof respectively to all intents and purposes; and every such Proclamation, direction and regulation shall forthwith upon the issuing thereof be laid before both Houses of the

the Provincial Parliament if the said Parliament be then sitting, and if not, then within fourteen days, next after the commencement of the then next Session of the said Parliament.

before Parliament.

IX. And be it enacted, That upon the issuing and publication of any such directions and regulations as aforesaid, and whilst the same shall continue in force, all by-laws made by the Town Council, Municipal Corporation, or other like Body of any place, to which the same or any of them may relate for preserving the inhabitants thereof from contagious diseases, or for any other of the purposes for which such directions and regulations are by this Act required to be issued, shall become and be suspended; and upon, from and after the nomination or appointment, and during the existence, of a Local Board of Health, under this Act for any such place, any Board of Health or Health Officer, or other like Officer, or any Committee appointed under any such by-law, shall be and remain deprived and relieved of all and every the powers, authorities and duties conferred and imposed upon him or them by any such by-law; but in any interval which may occur between the issuing of such directions and regulations, and the nomination or appointment of such Local Board of Health, he or they may, and shall exercise and perform such powers, authorities and duties in conformity with such directions and regulations, and shall and may act in every respect as if he or they were a Local Board of Health nominated or appointed under this Act.

Local by-laws on the subject of Health to be suspended while such regulations continue in force.

Proviso.

X. And be it enacted, That whosoever shall wilfully obstruct any person acting under the authority or employed in the execution of this Act, or who shall wilfully violate any direction or regulation issued by the Central Board of Health under this Act, or shall neglect or refuse to comply with such directions or regulations, or with the requirements of this Act in any matter whatsoever, shall be liable, for every such offence, to a penalty not exceeding five pounds, to be recovered by any person before any two Justices, and to be levied by distress and sale of the goods and chattels of the offender, together with the costs of such distress and sale, by Warrant under the hands and seals of the Justices before whom the same shall be recovered, or any other two Justices; and in case it shall appear to the satisfaction of such Justices, before or after the issuing of such Warrant, either by the confession of the offender or otherwise, that he hath not goods and chattels within their jurisdiction sufficient to satisfy the amount, they may commit him to any Gaol or House of Correction for any time not exceeding fourteen days, unless the amount be sooner paid, in the same manner as if a Warrant of Distress had issued, and a return of *nulla bona* had been made thereon; and all penalties whatsoever recovered under this Act shall be paid to the Treasurer, and applied in aid of the rates or funds, of the place in which such penalties may have been incurred respectively: Provided always nevertheless, that all offences committed against this Act or any of the provisions therein contained, while the same shall be in force in this Province or in any part thereof, shall and may be prosecuted, and the parties committing the same convicted and punished therefor as herein provided, as well after as during the time that this Act shall be declared to be in force in or by any such Proclamation or Proclamations as aforesaid.

Penalty on persons obstructing the execution of this Act, or refusing to comply with its requirements or with the regulations of the Central Board of Health.

To be recovered before two Justices.

Who may commit the offender to gaol in certain cases.

Application of penalties.

Proviso.

XI. And be it enacted, That no Order nor any other proceeding, matter or thing, done or transacted in, or relating to the execution of this Act shall be vacated, quashed or set aside for want of form, or be removed or removable by *Certiorari*, or other Writ or Process whatsoever, into any of the Superior Courts in this Province.

Certiorari taken away.

XII.

Interpretation
of certain
words.

XII. And be it enacted, That in this Act the following words and expressions shall have the meanings hereinafter assigned to them, unless such meanings be repugnant to or inconsistent with the context, that is to say : the words " Governor of this Province," or " His Excellency " shall mean the Governor, Lieutenant-Governor, or person administering the Government of this Province for the time being ; the words " Governor of this Province in Council," shall mean the Governor, Lieutenant-Governor, or person administering the Government of this Province for the time being, acting by and with the advice and consent of the Executive Council of this Province ; the words " two Justices," shall mean two or more Justices of the Peace acting for the place where the matter, or any part of the matter, as the case may be, requiring the cognizance of such two Justices, arises, assembled or acting together ; the word " place," shall mean a City, Town, Borough, Village, Township, Parish, or any other territorial division recognized or designated by law as a separate Municipality or municipal division ; the word " Street," shall include every Highway, Road, Square, Row, Lane, Mews, Court, Alley and Passage, whether a thorough-fare or not ; the word " person," and words applying to any person or individual, shall apply to and include Corporations, whether aggregate or sole ; words importing the singular number or the masculine gender only, shall include more persons, parties or things of the same kind, than one, and females as well as males, and the converse.

C A P. I X.

An Act to explain and amend an Act of the Parliament of the late Province of Upper-Canada, passed in the second year of Her Majesty's Reign, intituled, *An Act for the protection of the Lands of the Crown in this Province from trespass and injury*, and to make further provision for that purpose.

[25th April, 1849.]

Preamble.

Act of U. C.
2 Vict. c. 15.
cited.

Part of sect. 1.
repealed.

And the Act
extended to
all lands in U.
C. not granted,

WHEREAS it is expedient to explain and amend a certain Act of the Parliament of the late Province of Upper Canada, passed in the second year of Her Majesty's Reign, intituled, *An Act for the protection of the Lands of the Crown in this Province from trespass and injury*, and to make further provision for the protection of such Lands in that part of this Province: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*; and it is hereby enacted by the authority of the same, That so much of the first Section of the said Act as doth or may in any wise limit or restrain the provisions thereof, or the jurisdiction of the Commissioners appointed or to be appointed under the authority of the same, to Lands for the cession of which to Her Majesty no agreement hath been made with the Tribes occupying the same, and who may claim title thereto, shall be and the same is hereby repealed; and that the said Act and all the provisions thereof shall extend and shall be construed to extend to all Lands in that part of this Province called Upper Canada, whether such Lands be surveyed or unsurveyed, for which no Grant, Lease, Ticket

Ticket either of Location or Purchase, or Letter of License of Occupation hath been or shall have issued, either under the Great Seal, or by or from the proper Department of the Provincial Government, to which the issuing of the same at the time belonged, and whether such Land be part of those usually known as Crown Reserves, Clergy Reserves, School Lands or Indian Lands, or by or under any other denomination whatsoever, and whether the same be held in trust or in the nature of a trust for the use of the Indians or of any other parties whomsoever.

leased, located,
&c.

II. And be it enacted, That if upon investigation before the said Commissioners, or any one or more of them appointed under the said Act, against any one under the second Clause of the said Act, it shall appear to the said Commissioners that any person or persons hath or have been actually in possession of any such Lands or of any part thereof, or that any person or persons have at any time within twelve calendar months next before such investigation claimed to be in possession of any of such Lands, or of any part thereof, or claimed or pretended to have a right to such possession, but it shall nevertheless appear uncertain to such Commissioners who the party or parties may be who shall then be in actual possession of such Lands, or whether the persons in such possession claim or pretend to be in such possession in their own right, or merely as tenants, bailiffs, or servants of others, then and in every such case, it shall and may be lawful for the said Commissioners, or any one of them, to give a Notice to quit, similar to that required to be given by the said Act, but directed generally to all persons having or claiming possession of the Land in question, and to their tenants, bailiffs and servants, and all others whom it shall or may in any wise concern: which Lands shall be described in such Notice to quit and in every other Notice to quit under the said Act, with the same certainty as would be necessary in a Deed of Conveyance thereof from party to party, and shall require such persons to quit and remove from the possession and occupation of such Lands within not less than thirty days from the day of the service of such Notice: and if all persons whomsoever, except such as shall have a written authority from such Commissioners, or one of them, to remain upon such Lands, shall not quit and remove from the possession and occupation of the same within the time specified in such Notice, it shall and may be lawful for the said Commissioners, or any one of them, to issue a Warrant of Removal under their hands and seals, or under the hand and seal of one of them, directed to the Sheriff of the County wherein such Lands are situate, setting forth such Lands with the same certainty as required in the said Notice to quit as aforesaid, and commanding him to eject and remove all persons whomsoever from such Lands, so unlawfully possessed or occupied, or claimed to be possessed or occupied as aforesaid, which Warrant the Sheriff to whom the same is directed, shall have full power and authority to execute, and shall execute and carry into effect, in the same manner as by law he is authorized to execute and carry into effect Writs issued by Her Majesty's Courts of Law, for restoring and delivering possession of Lands recovered in any action of trespass and ejectment in that part of this Province.

Commis-
sioners under
the said Act
may in cases
of doubt issue
a general no-
tice to quit.

As to the
description of
the lands in
such notice.

Persons dis-
obeying the
notice may be
removed, on
an order of
the Commis-
sioners direct-
ed to the pro-
per Sheriff.

III. And be it enacted, That the Summons to appear issued upon any complaint made under the said Act shall in all cases contain such a description of the parcels of Lands with respect to which the proceeding is adopted, as would be necessary in a Deed of Conveyance thereof from party to party: and that henceforth it shall not be necessary that either the said Summons or the said Notice to quit shall be personally served upon the parties concerned, but it shall be sufficient to enable the Commissioners

As to the des-
cription of the
lands in any
Summons un-
der the said
Act.

As to service
of such Sum-
mons,
to

to proceed upon any such Summons or Notice, if the same shall have been served either by personally delivering the same to the person or persons in the actual possession or occupation of the Lands mentioned therein, or by leaving such Notice with the wife of such person, on the said premises, or by leaving the same with any grown person found on such premises, and in such last case putting up a duplicate of such Notice in some conspicuous place on the same premises, or where no grown person is found on the said premises, then by putting up duplicates of such Notice in four conspicuous places on such premises: Provided always, that no fine shall be imposed upon any party under the said Act, except upon personal service of such Summons, or service thereof on such person's wife as aforesaid.

Proviso:
where a fine
is imposed.

If the parties
removed re-
turn or are ex-
pected by the
sheriff to re-
turn, a Writ of
Removal by
Continuance
may be ob-
tained from the
court of Q.
B. for U. C.

IV. And be it enacted, That if after the execution of any Warrant of Removal, whether such Warrant be issued by such Commissioners, or any one of them, specially for the removal of particular parties, or generally for the removal of all parties found trespassing or intruding upon such Lands, the party or parties removed, or any other person or persons whomsoever, shall return or enter into or upon the premises with respect to which such Warrant of Removal was so executed, or if the Sheriff to whom such Warrant shall have been directed shall have reason to believe that any such person or persons or any others, will so return or enter into or upon such Lands, or any part thereof, unless the same be protected from such entry or intrusion, by the issue of process for the prevention thereof, it shall and may be lawful for such Sheriff, and he is hereby required to make a Special Return of such Warrant of Removal into Her Majesty's Court of Queen's Bench for Upper Canada, setting forth the return, entry or intrusion of such person or persons, or his belief that such return, entry or intrusion into or upon such Lands, will take place unless the same be protected by the issue of process for the prevention thereof, and upon such Return to the said Warrant being so made as aforesaid, it shall and may be lawful to sue out of the said Court of Queen's Bench a Writ of Removal by Continuance, as nearly as may be in the form to this Act prefixed marked A, and upon the Sheriff making a similar Return to such Writ of Removal by Continuance, an *Alias*, and after that upon similar Returns, *Pluries* Writs of a similar description shall and may be issued as often as it may be necessary for the protection of such premises against such intruders.

Such Writ of
Removal by
Continuance
may be super-
seded upon
causes shewn.

Proceedings if
the party
again intrude.

V. Provided always, and be it enacted, That upon a Rule to shew cause, to be obtained by any party concerned in such proceedings, or shewing an interest entitling him, her or them to be heard in that behalf, and which Rule shall be served personally, on at least one of the Commissioners for the time being, appointed for the protection of such Lands as aforesaid, the said Court of Queen's Bench shall and may order a *Supersedeas* to any such Writ *Alias* or *Pluries* Writ as aforesaid, whereupon no further proceedings shall be had upon any such Writ of Removal by Continuance, or upon the proceedings of the said Commissioners upon which the same was founded, but in the event of its being deemed necessary to proceed against such party or any other for intrusion or trespass into or upon any such Lands, resort shall be had to the like proceedings of Notice to quit and Warrant of Removal as at the first.

Conviction be-
fore the com-
missioners
may be re-
moved as of
course by *Cer-
tiorari*.

VI. And be it enacted, That in the case of any summary conviction of any party by the said Commissioners, or any one of them, for returning and unlawfully resuming the occupation of any such Lands, or any part thereof, or for trespass committed upon any such Lands, it shall and may be lawful to remove as of course such conviction by *Certiorari*,

Certiorari, into Her Majesty's said Court of Queen's Bench for Upper Canada, and thereupon for the satisfaction of the fine set or imposed by such conviction, to issue into any of the Districts of Upper Canada one or more Writs of *Fieri Facias* and *Capias ad Satisfaciendum*, in the nature of the Exchequer Long Writ, as nearly as may be in the form to this Act prefixed, marked B, with an *Alus* and as many *Pluries* and *Testatum* Writs of the like description as may be necessary, till the amount of such fine be levied and made as in the case of other debts due to Her Majesty: Provided always, that if at the time of the removal of any such conviction by *Certiorari* as aforesaid, the party convicted shall be in custody under the Warrant of the Commissioners, or any one of them, for non-payment of such fine, he or they shall not be discharged from such imprisonment at the end of the time prescribed in such Warrant, if the said Sheriff shall then have a Writ of *Fieri Facias* and *Capias ad Satisfaciendum* for the levying of such fine, and shall have been unable to make the amount thereof of the goods and chattels, lands or tenements of such party, but such party shall in every such case remain charged in custody upon such Writ until the said fine be fully paid or satisfied, as in the case of other Crown Debtors similarly charged.

And proceedings had for the satisfaction of any fine imposed by such conviction.

Proviso: if the party convicted be imprisoned for non-payment of such fine, when the Writ of Execution issues.

VII. And be it enacted, That the Commissioners appointed or to be appointed under the authority of the said Act, when engaged in the execution of their office, and each of such Commissioners when so engaged, shall have the same power and authority to commit for any contempt committed against them or him, as is now by law vested in Justices of the Peace in similar cases for contempts against them in the execution of their office.

Commissioners may commit for contempt.

A.

WRIT OF REMOVAL BY CONTINUANCE.
UPPER CANADA.

Victoria by the Grace of God, &c.

To the Sheriff of

Greeting:

Whereas by a certain Warrant of Removal made by one (or two, as the case may be) of the Commissioners appointed under the Great Seal of Our Province of Canada, for the receiving information and enquiry into complaints against persons for illegally possessing themselves of Lands of Our Crown ungranted and not under location, and Lands not ceded to Us or Our Predecessors by the Indian Tribes occupying the same, you were formerly commanded that (*here recite Commissioners' Warrant of Removal*) which said Warrant you lately returned to Us into Our Court of Queen's Bench before Us, at Toronto, and thereupon certified to Us that (*here insert the Sheriff's Return, setting forth the return of the party or parties, or his belief that he or they would return unless the Land be protected by the issue of Process for the protection thereof*) according to the form of the Statute in such case made and provided: Therefore, We command you, that immediately after receipt hereof you proceed to the said Lands and premises, and remove or cause to be removed all and singular such person and persons, if any, whom you shall find in or upon the same, from the possession thereof, and give and cause to be given to such person or persons as shall for that purpose be appointed by Our said Commissioners, or any one of them, under their or his hand and seal, the full, quiet, and peaceable possession of the said premises

premises and every part and parcel thereof, and that such person or persons, and all others having from time to time a similar Warrant from Our said Commissioners, or any one of them, in such quiet and peaceable possession of the said premises, that you support, help and maintain from time to time, as often as occasion shall and may require; and what you shall do in the premises you certify to Us in Our said Court of Queen's Bench, before Us, at Toronto, on the _____ day of _____ Term next, together with this Writ; and herein fail not at your peril.

Witness the Honorable
other Writs issued out of the said Court.

Chief Justice, &c. (*as in*

B.

WRIT OF FIERI FACIAS AND CAPIAS AD SATISFACIENDUM.
UPPER CANADA.

Victoria by the Grace of God, &c.

To the Sheriff of

Greeting:

Whereas by a certain conviction had before two of Our Commissioners appointed under the Great Seal of Our Province of Canada, for receiving informations and enquiring into complaints against persons illegally possessing themselves of Lands of Our Crown, ungranted and not under location, and Lands not ceded to Us or Our Predecessors by the Indian Tribes occupying the same, it was considered by the said Commissioners (*here set out the conviction*) which said conviction for certain reasons We caused to be certified to Us in Our Court of Queen's Bench before Us, at Toronto, according to the form of the Statute in such case made and provided: We, therefore, being willing to be satisfied the said fine so by the said Commissioners set and imposed upon the said _____ do hereby command you that you levy of the goods and chattels of the said _____ in your Bailiwick, the amount of the said fine so set and imposed upon him as aforesaid, so that you may have that money in Our said Court of Queen's Bench before Us at Toronto, on the _____ day of _____ next: and if it shall happen that sufficient goods and chattels of the said _____ shall not be found in your Bailiwick for payment of the said fine, then, We command you that you levy of the Lands and Tenements of the said _____ in your Bailiwick, the amount of the said fine so set and imposed on him as aforesaid, and have that money in Our said Court before Us on the day and at the place aforesaid; and if it shall happen that sufficient neither of goods or chattels, Lands or Tenements of the said _____ shall be found in your Bailiwick for payment of the said fine, then, We command you that you take the Body of the said _____ wheresoever he shall be found in your Bailiwick, and him safely keep in your prison until he hath fully satisfied Us the said fine so set and imposed upon him as aforesaid: and in what manner you shall have executed this Our Command, make appear to Us in Our said Court before Us, on the day and at the place aforesaid, and have then there this Writ.

Witness the Honorable
issued out of the same Court.

Chief Justice (*as in other Writs*

CAP. X.

An Act for putting a legislative Interpretation upon certain terms used in Acts of Parliament, and for rendering it unnecessary to repeat certain provisions and expressions therein, and for ascertaining the date and commencement thereof, and for other purposes.

[25th April, 1849.]

WHEREAS it is desirable to avoid, by the establishment of some general rules for the interpretation of Acts of the Provincial Parliament, the continual repetition therein of words, phrases and clauses, which are rendered necessary solely by the want of such rules, and also to provide for the date and commencement of such Acts being known with certainty: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the government of Canada*, and it is hereby enacted by the authority of the same, That this Act shall be known, cited and referred to as "The Interpretation Act," and that each provision thereof shall extend and apply to each Act passed in this present Session or in any future Session of the Provincial Parliament, except in so far as any such provision shall be inconsistent with the intent and object of such Act, or the interpretation which such provision would give to any word, expression or clause shall be inconsistent with the context; and except in so far as this Act or any provision thereof shall in any such Act be declared not applicable thereto; nor shall the omission in any Act of a declaration that this Act shall apply thereto, be construed to prevent its so applying, although such express declaration may be inserted in some other Act or Acts of the same Session.

Preamble.

By what name this Act shall be known, and to what Acts it shall apply.

II. And be it enacted, That the Clerk of the Legislative Council shall endorse on every Act of the Parliament of this Province which shall pass during the present and every future Session thereof, immediately after the title of such Act, the day, month and year when the same shall have been by the Governor of this Province assented to in Her Majesty's name, or reserved for the signification of Her Majesty's pleasure thereon, and in the latter case he shall also endorse thereon the day, month and year when the Governor of this Province shall have signified either by speech or message to the Legislative Council and Assembly of this Province, or by Proclamation, that the same has been laid before Her Majesty in Council, and that Her Majesty has been pleased to assent to the same; and such indorsement shall be taken to be a part of such Act, and the date of such Assent or Signification, as the case may be, shall be the date of its commencement if no later commencement be therein provided.

Date of Royal Assent, &c. to any Act to be indorsed thereon, and to make part thereof, &c.

III. And be it enacted, That any Act of the Parliament of this Province passed or to be passed during the present or during any future Session thereof, may be amended, altered or repealed by any Act to be passed in the same Session thereof; any law, usage or custom to the contrary notwithstanding.

Any Act may be amended during the same Session.

IV.

Governor and His Successors in office to be a Corporation sole.

IV. And be it enacted, That the Governor, Lieutenant-Governor, or person administering the Government of this Province for the time being, and His Successors, shall be and He and they are hereby declared to be a Corporation sole; and all bonds, recognizances, and other instruments now by law required to be taken to Him in His public capacity, or which shall or may hereafter be required to be so taken, shall be taken to Him and His Successors, by His name of office, and shall and may be sued for and recovered by Him or His Successors, the Governor, Lieutenant-Governor, or person administering the Government of this Province for the time being, by His or Their name of office as such; and the same shall not in any case go to or vest in the personal representatives of such Governor, Lieutenant-Governor, or person administering the Government of this Province during whose government thereof the same shall have been so taken.

How certain expressions shall be construed.

V. And be it enacted, That in every Act of the Parliament of this Province, passed or to be passed as aforesaid:

Her Majesty, &c.

First. The words "Her Majesty," "the Queen," or "the Crown," shall mean Her Majesty, Her Heirs and Successors, Sovereigns of the United Kingdom of Great Britain and Ireland.

Governor, &c

Secondly. The words "Governor," "Governor of this Province," "Governor-General," or "Governor in Chief," shall mean the Governor, Lieutenant-Governor, or person administering the government of this Province for the time being.

Governor in Council.

Thirdly. The words "Governor in Council," shall mean the Governor, Lieutenant-Governor, or person administering the government of this Province for the time being, acting by and with the advice of the Executive Council thereof.

Lower Canada.

Fourthly. The words "Lower Canada," shall mean all that part of this Province which formerly constituted the Province of Lower Canada.

Upper Canada.

Fifthly. The words "Upper Canada," shall mean all that part of this Province which formerly constituted the Province of Upper Canada.

Names of Countries, places, societies or things.

Sixthly. The words "the United Kingdom," shall mean the United Kingdom of Great Britain and Ireland; and the words "the United States," shall mean the United States of America; and generally, the name commonly applied to any country, place, body, corporation, society, officer, functionary, person, party or thing, shall mean such country, place, body, corporation, society, officer, functionary, person, party or thing, although such name be not the formal and extended designation thereof.

Singular number or masculine gender.

Seventhly. Words importing the singular number or the masculine gender only, shall include more persons, parties or things of the same kind than one, and females as well as males, and the converse.

Person,

Eighthly. The word "person," shall include any body corporate or politic, or party, and the heirs, executors, administrators or other legal representatives of such person, to whom the context can apply according to the law of that part of the Province to which such context shall extend.

Ninthly.

Ninthly. The words "writing," "written," or any term of like import, shall include words printed, painted, engraved, lithographed, or otherwise traced or copied.

Writing.
Written.

Tenthly. The words "now" or "next," shall be construed as having reference to the time immediately before the commencement of the Session in which the Act shall have been presented for the Royal Assent.

Now—next—
hereafter.

Eleventhly. The word "month" shall mean a calendar month.

Month.

Twelfthly. The word "holiday" shall include Sundays, New Year's Day, the Epiphany, the Annunciation, Good-Friday, the Ascension, *Corpus Christi*, St. Peter and St. Paul's Day, all Saints Day and Christmas Day,—and any day appointed by Proclamation for a General Fast or Thanksgiving.

Holiday.

Thirteenthly. The word "oath" shall be construed as meaning a solemn affirmation whenever the context shall be applied to any person and case by whom and in which a solemn affirmation may be made instead of an oath: and in every case where an oath or affirmation is directed to be made before any person or officer, such person or officer shall have full power and authority to administer the same and to certify its having been made; and the wilful making of any false statement in any such oath or affirmation, shall be wilful and corrupt perjury, and the wilful making of any false statement in any declaration required or authorized by any such Act as aforesaid, shall be a misdemeanor punishable as wilful and corrupt perjury.

Oath.

Power to ad-
minister.

False state-
ments to be
perjury.

Fourteenthly. The words "Registrar" or "Register" in any such Act, applying to the whole Province, shall mean and include indifferently both Registrars in Lower Canada and Registers in Upper Canada, and their Deputies, respectively.

Registrar.
Register.

Fifteenthly. Any wilful contravention of any such Act as aforesaid, which is not made any offence of some other kind, shall be a misdemeanor, and punishable accordingly.

Contravention
of Acts.

Sixteenthly. Whenever any wilful contravention of any such Act shall be made an offence of any particular kind or name, the person guilty of such contravention shall, on conviction thereof, be punishable in the manner in which such offence is by law punishable.

Contravention
to which a
legal name is
assigned.

Seventeenthly. Whenever any pecuniary penalty or any forfeiture is imposed for any contravention of any such Act as aforesaid, then if no other mode be prescribed for the recovery thereof, such penalty or forfeiture shall be recoverable with costs by civil action or proceeding at the suit of the Crown only, or of any private party suing as well for the Crown as for himself, in any form allowed in such case by the law of that part of the Province where it shall be brought, before any Court having jurisdiction to the amount of the penalty in cases of simple contract, upon the evidence of any one credible witness other than the Plaintiff or party interested; and if no other provision be made for the appropriation of such penalty or forfeiture, one half thereof shall belong to the Crown, and the other half shall belong to the private plaintiff, if any there be, and if there be none, the whole shall belong to the Crown.

Recovery and
distribution of
penalties and
forfeitures.

Eighteenthly.

Monies levied for the Crown to make part of Consolidated Revenue Fund.

Eighteenthly. Any duty, penalty or sum of money, or the proceeds of any forfeiture, which shall by any such Act as aforesaid be given to the Crown, shall, if no other provision be made respecting it, form part of the Consolidated Revenue Fund of this Province, and be accounted for and otherwise dealt with accordingly.

Monies appropriated how payable and accounted for.

Nineteenthly. If any sum of the public money be by any such Act as aforesaid, appropriated for any purpose or directed to be paid by the Governor, then, if no other provision be made respecting it, such sum shall be payable under Warrant of the Governor directed to the Receiver General, out of the Consolidated Revenue Fund of this Province, and the due application thereof shall be accounted for to Her Majesty, through the Lords Commissioners of the Treasury for the time being, in such manner and form as Her Majesty shall direct; and all persons entrusted with the expenditure of any such sum or any part thereof shall account for the same in such manner and form, with such vouchers, at such periods, and to such Officer, as the Governor shall direct.

Magistrate, Justices, &c.

Twentiethly. The word "Magistrate" shall mean a Justice of the Peace; the words "two Justices," shall mean two or more Justices of the Peace, assembled or acting together; and if any thing be directed to be done by or before a Magistrate or a Justice of the Peace, or other Public Functionary or Officer, it shall be done by or before one whose jurisdiction or powers extend to the place where such thing is to be done: and whenever power is given to any person, Officer or Functionary to do or to enforce the doing of any act or thing, all such powers shall be understood to be also given as shall be necessary to enable such person, Officer or Functionary to do or enforce the doing of such act or thing.

Power to do any act.

Twenty-firstly. If in any such Act as aforesaid, any party be directed to be imprisoned or committed to prison, such imprisonment or committal shall, if no other place be mentioned, be in or to the common gaol of the locality in which the order for such imprisonment shall be made, or if there be no common gaol there, then in or to that common gaol which shall be nearest to such locality; and it shall be lawful for the keeper of any such common gaol, to receive such person, and him safely to keep and detain in such common gaol under his custody until discharged in due course of Law, or bailed in cases in which bail may by Law be taken.

Imprisonment and detention in gaol.

Power of appointing to include power of removing.

Twenty-secondly. Words authorizing the appointment of any public Officer or Functionary, or any Deputy, shall be construed to include the power of removing him, re-appointing him or appointing another in his stead, in the discretion of the authority in whom the power of appointment is vested.

Public Officer to include his Successor or Deputy.

Twenty-thirdly. Words directing or empowering a public Officer or Functionary to do any act or thing or otherwise applying to him by his name of Office, shall include his Successors in such Office, and his or their lawful Deputy.

Words creating a corporation.

Twenty-fourthly. Words making any association or number of persons a corporation or body politic and corporate, shall be construed to vest in such corporation, power to sue and be sued, contract and be contracted with, by their corporate name, to have a common seal, and to alter or change the same at their pleasure, and to have perpetual succession, and power to acquire and hold personal property or moveables for the purposes for which the Corporation is constituted, and to alienate the same at pleasure; and also

also to vest in any majority of the members of the Corporation, the power to bind the others by their acts; and also to exempt the individual members of the Corporation from personal liability for its debts or obligations or acts, provided they do not contravene the provisions of the Act incorporating them; but it shall not be lawful for any Corporation to carry on the business of banking unless when such power shall be expressly conferred on them by the Act creating such Corporation.

As to Banking.

Twenty-fifthly. No provision or enactment in any such Act, as aforesaid, shall affect or be construed to affect in any manner or way whatsoever, the rights of Her Majesty, Her Heirs or Successors, unless it be expressly stated therein that Her Majesty shall be bound thereby; nor the rights of any person or of any body politic, corporate or collegiate, such only excepted as are therein mentioned, unless such Act be a Public General Act.

Rights of the Crown saved.

And of other parties.

Twenty-sixthly. Every such Act as aforesaid shall be so construed as to reserve to the Legislature the power of repealing or amending it, and of revoking, restricting or modifying any power, privilege or advantage thereby vested in or granted to any person or party, whenever such repeal, amendment, revocation, restriction or modification shall be deemed by the Legislature to be required for the public good; and unless it shall be otherwise expressly provided in any Act already passed or to be passed for chartering any Bank, it shall be in the discretion of the Legislature at any time thereafter to make such provisions and impose such restrictions with respect to the amount and description of notes which may be issued by such Bank, as may to them appear expedient.

Power to amend the Act.

And if it be a Bank act.

Twenty-seventhly. If any such Act as aforesaid be declared to be a Public Act, such declaration shall be construed as an enactment that such Act shall be judicially noticed by all Judges, Justices of the Peace and others without being specially pleaded: and every such Act which shall not, either by its nature or by express provision, be a Public Act, shall be deemed a Private Act, and shall be judicially noticed only when specially pleaded; and all copies of any such Acts, public or private, printed by the Queen's Printer, shall be evidence of such Acts and of their contents, and every copy purporting to be printed by the Queen's Printer shall be deemed to be so printed, unless the contrary be shewn.

Public Act.

Private Act.

Printed copies of Acts.

Twenty-eighthly. The Preamble of every such Act as aforesaid shall be deemed a part thereof intended to assist in explaining the purport and object of the Act; and every such Act and every provision or enactment thereof, shall be deemed remedial, whether its immediate purport be to direct the doing of any thing which the Legislature may deem to be for the public good or to prevent or punish the doing of any thing which it may deem contrary to the public good, and shall accordingly receive such fair, large and liberal construction and interpretation as will best ensure the attainment of the object of the Act and of such provision or enactment, according to their true intent, meaning and spirit.

Preamble.

All Acts remedial.

Twenty-ninthly. Nothing in this Act shall be construed to exclude the application to any such Act as aforesaid, of any Rule of Construction applicable thereto, and not inconsistent with this Act, or to exclude the application of any Rule of Construction in this Act to any Act passed in any Session before the present, if without this Act such Rule would have been applicable thereto.

Application of Rules of Construction inserted or not inserted in this Act.

Thirtiethly.

Provisions applicable to words, &c. in this Act.

This Act may be amended in this Session.

Thirtiethly. The provisions of this Act shall apply to the construction thereof and of the words and expressions used therein.

VI. And be it enacted, That this Act may be amended, altered or repealed by any Act to be passed in this present Session of Parliament.

CAP. XI.

An Act to confirm the erection of certain Townships, and for other purposes relative to the erection of Townships.

[25th April, 1849.]

Preamble.

Section 58 of the Union Act cited.

Erection of Townships in U. C. confirmed, although the provisions of the said section of the Union Act may not have been strictly complied with.

WHEREAS by the fifty-eighth section of the Act of the Imperial Parliament, passed in the session held in the third and fourth years of Her Majesty's Reign, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, it is enacted, That it shall be lawful "for the Governor, " by an Instrument or Instruments to be issued by Him for that purpose under the Great " Seal of the Province, to constitute Townships in those parts of the Province of " Canada in which Townships are not already constituted, and to fix the metes and " bounds thereof, and to provide for the election and appointment of Township Officers " therein, who shall have and exercise the like powers as are exercised by the like " Officers in the Townships already constituted in that part of the Province of Canada " now called Upper Canada; and every such Instrument shall be published by " Proclamation, and shall have the force of law from a day to be named, in each case, " in such Proclamation;" And whereas since the time when the said Act came into force, divers Townships have been set apart and erected in that part of this Province which formerly constituted the Province of Upper Canada, in the manner formerly practised in that part of the Province before the Union, but without any Proclamation having been issued for the erection of the same in the manner by the said section provided, and it is expedient to confirm the setting apart and erection of the same: Be it therefore enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That all such tracts of land in that part of this Province called Upper Canada, as since the Union of the Provinces, have been set apart, erected and named as Townships, in the manner formerly practised in that part of the Province before the Union, shall, by the several names by which the same are now designated on the original maps thereof in the office of Her Majesty's Commissioner of Crown Lands, be and be deemed to have been Townships, by the names aforesaid respectively, and with the several metes and boundaries designated on such maps, and by the other records of the said office upon which such maps were framed, as fully and effectually to all intents and purposes whatsoever, as if the same and each of them had been set apart, erected and named by Proclamation under the Great Seal of this Province, as directed by the provisions of the said Act; and to all such Townships, the laws in force in Upper Canada,

Canada, in the election and appointment of Township Officers, and for the establishment and regulation of the powers of such Officers, shall apply and shall be deemed to have applied to all intents and purposes, as if the same had been so provided in and by such Proclamation.

II. And whereas there are now and may be hereafter among the Townships in either section of this Province, divers gores or small tracts of land, which from various causes have not been or may not be included in the original survey and description of any Township, and being of too limited extent to form Townships by themselves: Be it therefore enacted, That it shall be lawful for the Governor of this Province, by Proclamation to annex any such gore or tract of land as aforesaid, in any part of this Province, to any Township to which it may be adjacent or partly to one and partly to another of any two or more Townships to which it may be adjacent, as in His discretion He may deem most expedient; and from and after the day named for the purpose in such Proclamation, or from the date thereof, if no other day be therein named for the purpose, the tract of land thereby annexed to any Township shall form part thereof to all intents and purposes whatsoever.

Small Gores not included in any Township, may be annexed to adjacent Townships by Proclamation.

C A P. XII.

An Act for the Punishment of Warehousemen and others giving False Receipts for Merchandize, and of Persons receiving Advances upon Goods, and afterwards fraudulently disposing of the same.

[25th April, 1849.]

WHEREAS frauds have been committed by the giving of false receipts for merchandize by Warehousemen and others, and by parties having received advances on merchandize afterwards disposing of them to the injury of the parties making such advances: For the prevention of such frauds—Be it enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same; That if the Keeper of any Warehouse, or any Forwarder, Common Carrier, Agent, Clerk, or other person employed in or about any Warehouse, or if any other Factor or Agent, or any Clerk or other person employed in or about the business of such Factor or Agent, shall knowingly and wilfully give to any person a writing purporting to be a receipt for, or an acknowledgment of any goods or other property having been received in his Warehouse, or in the Warehouse in or about which he shall be employed, or in any other manner received by him or by the person in or about whose business he shall be employed, before the goods or other property named in such receipt or acknowledgment shall have been actually delivered to him as aforesaid, with intent to mislead, deceive, injure or defraud any person or persons whomsoever, although such person or persons may be then unknown; or if any person shall knowingly and wilfully accept or transmit or use any such false receipt or acknowledgment, the person giving and the person accepting such receipt or acknowledgment

Preamble.

Persons giving false receipts for goods, or making use of such false receipts, to be guilty of a misdemeanor.

Punishment for such offence.

acknowledgment shall severally be deemed guilty of a misdemeanor, and upon conviction thereof, shall be liable in the discretion of the Court to be imprisoned in the Provincial Penitentiary, and kept at hard labour for any period of time not exceeding three years, nor less than one year.

Persons fraudulently disposing of goods after having received advances upon them, to be guilty of a misdemeanor.

II. And be it enacted, That if any owner of merchandize, or other person in whose name merchandize shall be shipped or delivered to the Keeper of any Warehouse, or other Factor, or Agent, or Carrier, to be shipped or carried, shall, after the advancement to him of any money, or the giving to him of any negotiable security by the Consignee of such merchandize, for his own benefit and in violation of good faith, and without the consent of such Consignee being therefor first had and obtained, make any disposition of such merchandize different from and inconsistent with the agreement in that behalf between such owner or other person aforesaid and such Consignee at the time of or before such money being so advanced or such negotiable security being so given, with the intent to deceive, defraud or injure such Consignee, such owner or other person aforesaid, and each and every other persons knowingly and wilfully acting and assisting in making such disposition for the purpose of deceiving, defrauding or injuring such Consignee, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be liable to be, in the discretion of the Court before whom the conviction shall take place, imprisoned in the Provincial Penitentiary, and kept at hard labour for any period of time not more than three years, nor less than one year; Provided, however, that no person shall be subject to prosecution under this section, who shall, before making such disposition as aforesaid of such merchandize, pay or tender to the Consignee the full amount of any advance made thereon.

Punishment for such offence.

Proviso as to partners not conniving.

Interpretation clause.

III. And be it enacted, That all words in this Act importing the singular number only, shall be construed as including the plural number also, unless there be something in the context inconsistent with such construction; and if any offence against this Act be committed by the doing of anything in the name of any firm, company or co-partnership of persons, the person by whom such thing shall be actually done, or who shall have connived at the doing thereof, shall be deemed guilty of such offence, and not any other person.

CAP. XIII.

An Act for the Queen's Most Gracious, General and Free Pardon.

[1st February, 1849.]

Preamble.

THE Queen's Most Excellent Majesty being assured of the loyalty of the Inhabitants of this Province, and of the firm establishment of peace therein, and being desirous of exercising Her Most Excellent Prerogative of Mercy towards all such of Her Subjects and others who, during the Rebellion which unhappily occurred in this Province in the years one thousand eight hundred and thirty-seven and one thousand eight hundred and thirty-eight, and during the domestic troubles and disorders which followed it, took part in the said Rebellion, troubles and disorders, or in the invasions and acts of hostile violence by which they were attended, and being desirous of quieting the minds of Her Subjects in general, hath, upon mature deliberation, resolved and determined to grant Her

Her General and Free Pardon to all such persons as aforesaid, for all offences arising out of the part they may have respectively taken in the said Rebellion, troubles, disorders, invasions and acts of hostile violence, and through His Excellency the Right Honorable James, Earl of Elgin and Kincardine, Her Majesty's Governor-General of this Province, hath signified Her Gracious intention in that behalf, to both Houses of the Parliament of this Province, to the end that Her said Merciful determination may be carried into effect in the most ample and beneficial manner: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That all persons and parties whatsoever are and shall be acquitted, pardoned, released, discharged, indemnified and saved harmless, from all and all manner of treasons, misprisions of treason, suspicion of treason, felonies, sedition or seditious, or treasonable meetings, practices, words or writings, and of all riots, routs, contempts, wrongs, trespasses, misdemeanors, and other offences arising out of, dependent upon or connected with the part they may have respectively taken in, or with regard to the said Rebellion, troubles, disorders, invasions and acts of hostile violence, and whether precedent or subsequent to the same, and generally from all offences of a political nature, or against Her Majesty, Her Crown, Authority and Government, committed before the thirtieth day of January, in the year of Our Lord, one thousand eight hundred and forty-seven; nor shall any indictment, information, or other proceeding, in any Court or Tribunal of Criminal Jurisdiction, or any suit or action in any Court or Tribunal of Civil Jurisdiction, be hereafter maintained or maintainable for any crime, offence or act arising out of, dependent upon or connected with the part which any person or party may have taken, in or with regard to the said Rebellion, troubles, disorders, invasions or acts of hostile violence, whether precedent or subsequent to the same, and committed or done before the said thirtieth day of January, one thousand eight hundred and forty-seven.

II. And whereas Her Majesty hath been pleased to declare Her Gracious intention to remit and restore all forfeitures of lands, goods and chattels, and all penalties of a pecuniary nature incurred by reason of such crimes and offences as aforesaid, except as hereinafter mentioned: Be it therefore enacted, That lands and tenements, goods and chattels, or sums of money, which, for or by reason of any crime or offence of and from which the offender is or might be acquitted, pardoned, released and discharged by virtue of this Act, are forfeited to Her Majesty, shall be and are hereby freely granted and given by Her Majesty to such offender, his or her heirs or other legal representatives, according to the nature thereof, to belong and appertain to him, her or them, and to be dealt with as if such offence had never been committed; and all and every attainder, whether by outlawry or otherwise, for any such crime or offence as aforesaid, shall be and is hereby reversed, and the corruption of blood and forfeiture wrought by such attainder, shall be and are hereby taken away and avoided, and the estates, property and effects which immediately before such attainder were of and belonged to the offender, shall be and are hereby vested in the same party or parties, in the same manner and with the same effect to all intents and purposes, and with the same and no other consequence or effect as to the rights of third parties in, upon or with regard to the same, as if such offender had not been so attainted: Provided always, that nothing herein contained shall extend

All persons freely pardoned for all offences connected with the Rebellion, invasions, &c. in 1837 and 1838, and for all political offences committed before 30th January, 1847.

No proceeding, criminal or civil, shall be maintainable for any such offence.

Recital.

All lands and tenements, goods and chattels forfeited, freely restored, and all attainders reversed, and corruption of blood taken away, &c.

Proviso as to
to

property actually seized and sold under any forfeiture.

to or affect any goods or chattels, lands or tenements, actually seized and sold under lawful authority in consequence of any such forfeiture or attainder, by any Public Officer or Minister of Justice, but such goods and chattels, lands and tenements, shall belong to the same parties and be dealt with in all respects as if this Act had not been passed.

This Act and the said pardon to be construed in the most liberal and beneficial manner.

III. And be it enacted, That this Act and the free and general pardon herein mentioned and granted, shall be construed and taken in the most large and beneficial sense and manner in favor of the persons and parties hereinbefore mentioned and every of them, and shall have as full and ample effect in the case of each offender to whom (being so largely and beneficially construed) they can apply, as if Her Majesty's free and unconditional pardon, had been specially granted to such offender for the offence of which he may have been guilty, or as if he had been specially named, and his offence specified and freely pardoned in and by this Act.

Effect against private prosecutors.

IV. And be it enacted, That this Act shall have as full effect against any private prosecutor or party as against the Queen's Majesty, Her Heirs and Successors.

How this Act may be pleaded.

V. And be it enacted, That any person or party hereby pardoned and discharged, may in any prosecution, suit or action against him or her, founded on any offence from which he or she is hereby pardoned and discharged, plead the general issue, and give this Act and the special matter in evidence.

This Act not to affect certain other Acts.

VI. And be it enacted, That this Act shall not extend or be construed to extend to alter or in any wise affect the provisions of a certain Act of the Parliament of this Province, passed in the Session held in the eighth year of Her Majesty's Reign, and intituled, *An Act to vest in John Montgomery and Thomas Ewart the property forfeited to the Crown by the Attainder of the said John Montgomery*, nor to alter or in any wise affect the provisions of a certain other Act of the Parliament of this Province, passed in the Session held in the ninth year of Her Majesty's Reign, intituled, *An Act to reverse the Attainder of Peter Matthews, and to avoid the forfeiture of his estates and property*, nor to alter or in any wise affect the provisions of a certain other Act of the Parliament of this Province, passed in the Session held in the tenth year of Her Majesty's Reign, intituled, *An Act to restore the rights of certain persons attainted of High Treason*.

C A P. X I V.

An Act to continue and amend the Act imposing Duties on Spirits distilled in this Province, and to provide for the warehousing of such Spirits.

[30th May, 1849.]

Preamble.
9 V. c. 2.

WHEREAS it is expedient to amend the Act passed in the ninth year of Her Majesty's Reign, and intituled, *An Act to repeal certain Acts therein mentioned, and to impose a Duty on Distillers and on the Spirituous Liquors made by them, and to provide for the collection of such Duties*, and to continue the said Act as so amended: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority

authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That so much of the fifth section of the Act mentioned in the Preamble to this Act, as fixes the Duty to be paid on Spirits, Strong Waters and Spirituous Liquors, at two pence per gallon, Imperial measure, shall be and is hereby repealed, in so far only as regards Spirits, Strong Waters or Spirituous Liquors distilled, manufactured or made since the twenty-fifth day of April last past, but shall remain in force as to those distilled, manufactured or made before the date last aforesaid; and all parts of the said Act not inconsistent with this Act shall remain in force and shall apply to the duty hereinafter mentioned and imposed, in the same manner as without this Act they would apply to the duty mentioned and imposed by the said Act.

In what cases only the duty imposed by the said Act shall be payable.

As to other provisions of the Act.

II. And be it enacted, That the duty to be paid (under the provisions of the said Act in so far as the same are not inconsistent with those of this Act,) on Spirits lawfully distilled, manufactured or made within this Province since the twenty-fifth day of April last past, shall be one penny currency per gallon, wine measure, for Spirits not exceeding the strength of proof by Sykes' Hydrometer, and so in proportion for any greater strength than the strength of proof, and for any greater or less quantity than a gallon, and such duty shall be computed and charged upon the quantity of Spirit to be ascertained after the first process of rectification.

What duty shall be paid on Spirits made after the 25th April, 1849.

III. Provided always, and be it enacted, That it shall be lawful to deposit in any duly established Customs Warehouse any Spirits subject to duty under this Act or the Act hereby amended (and in like manner, and under like regulations so far as they may be found applicable, as articles imported into the Province) upon the payment of five per centum on the duty to which the same would be subject if not so warehoused, which per centage shall always be paid to the District Inspector before such warehousing shall be allowed; and in like manner such Spirits may be exported without further payment of duty, or may be taken out of Warehouse for consumption, on payment of the duty thereon, less the five per centum aforesaid.

Spirits made in Canada may be warehoused on certain conditions.

IV. And be it enacted, That it shall be lawful for the Governor in Council to make such regulations as shall to him seem necessary for adapting any regulation then in force relative to the warehousing of goods liable to Duties of Customs, to the warehousing of Spirits under this Act, or to make such other regulations touching the warehousing of such Spirits as to him shall seem meet; and all the provisions of the Act passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, and intituled, *An Act for repealing and consolidating the present Duties of Customs in this Province, and for other purposes therein mentioned*, or of the Act of the present Session amending the same, shall apply to regulations to be made under this Act, as if the same related to the warehousing of goods subject to Duties of Customs under the said Acts, or either of them.

Governor in Council may make regulations for the warehousing of spirits.

10 and 11 V. c. 31.

V. And be it enacted, That the word "Spirits," wherever it occurs in this Act, shall mean and include all Spirits, Strong Waters and Spirituous Liquors of any kind.

Interpretation clause.

VI. And be it enacted, That the Act herein first above mentioned and hereby amended, shall be continued and shall remain in force as amended by this Act, until repealed or altered by competent authority.

Act 9, V. c. 2, continued, as hereby amended.

CAP XV.

An Act to impose Tolls on Vessels and Passengers brought down the St. Lawrence, past any of the Canals thereon.

[30th May, 1849.]

Preamble.

WHEREAS it is expedient to impose Tolls on Vessels and Passengers brought down the River St. Lawrence, past any of the Canals thereon : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the same Tolls shall be payable on Steamboats or Vessels of any kind and Passengers, brought down the River St. Lawrence, past any of the Canals between Montreal and Kingston, as would be payable on such Steamboats, Vessels or Passengers, if the same had been brought through the Canal or Canals past which they shall have been brought down ; and such Tolls shall be levied in like manner, and under the like penalties and forfeitures for the non-payment thereof.

What Tolls shall be payable on vessels and passengers.

Recital.

9 V. c. 37.

Regulations may be made for the seizure of vessels for non-payment of Tolls, &c.

II. And whereas doubts have been entertained as to the extent of some of the powers committed to the Governor in Council by the eighteenth Section of the Act passed in the ninth year of Her Majesty's Reign, and intituled, *An Act to amend the Law constituting the Board of Works*, and it is expedient to remove such doubts : Be it therefore enacted, That it shall be lawful for the Governor in Council, by any regulation made and published as by law required, to authorize the seizure of any boat or vessel of any description, using any of the public works in the said Act mentioned, either for the non-payment of Tolls, or of any fine duly imposed, or of any sum demanded by the Superintendent, Engineer, or person in charge of any such work, as compensation for damage done, and further to empower the party making such seizure to detain such vessel with her cargo and appurtenances at the risk of the owner or owners, until payment of such Toll, penalty or compensation as aforesaid ; and it shall be lawful for the Governor in Council to regulate the seizure and detention of any vessel and cargo as aforesaid, by such rules and orders as to him may seem expedient.

CAP. XVI.

An Act to amend the Law relative to the printing and distribution of the Provincial Statutes.

[30th May, 1849.]

Preamble.

WHEREAS it is desirable to diminish the great expense of printing and distributing the Provincial Statutes : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom

Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That for and notwithstanding any thing in the Act passed in the eighth year of Her Majesty's Reign, and intituled, *An Act to provide for the distribution of the printed copies of the Laws*, or in any other Act or Law, none but public general Statutes shall be printed and distributed at the expense of the Province to the number now required by law, the titles only of the rest being so printed and distributed; and that none but Acts applying to the whole Province, or to the whole of Upper or of Lower-Canada, shall be deemed to be public general Statutes.

Only the public general Statutes to be printed and distributed to the full number under 8 V. c. 68.

What shall be public general Statutes.

II. And be it enacted, That local Acts not being private or personal Acts but affecting the inhabitants of any locality generally, shall be printed at the expense of the Province, but in such number only as shall be sufficient for their distribution to the Judges and Public Departments of the Legislature and Government, and to such Functionaries in the localities specially affected as are entitled to receive copies of the Statutes, but not elsewhere.

To what extent local Acts shall be printed and distributed.

III. And be it enacted, That private or personal Acts, or Acts which although declared public are in their nature private or personal, as incorporating or granting privileges or advantages to any individual or number of individuals, or as amending any such Act passed after the present Session, shall be printed by the Queen's Printer at the expense of the parties obtaining them, who shall furnish at their own cost one hundred and fifty printed copies thereof to the Provincial Government, but that such Acts need not be so printed in the French language if they relate only to Upper-Canada; and that such Acts passed during the present Session shall be printed by the Queen's Printer at the expense of the Province, but in such number only as shall be sufficient for their distribution to the Judges and Public Departments of the Legislature and Government, and to such Functionaries in the localities in or to which the said Acts shall be more especially applicable as are entitled to receive copies of the Statutes, but not elsewhere.

Private or personal Acts to what extent to be printed and distributed and at whose expense.

As to such Acts passed during the present Session.

IV. Provided always and be it enacted, That nothing herein contained shall prevent the full effect of any clause declaring any Act to be a public Act, in so far as regards the judicial notice to be taken thereof or the effect of any copy thereof, printed by the Queen's Printer as evidence.

Not to prevent the effect of any such Act as evidence.

V. And be it enacted, That so much of the Act hereinbefore cited as shall be inconsistent with this Act, shall be and is hereby repealed.

Inconsistent provisions repealed.

C A P. X V I I.

An Act to continue for a limited time the several Acts and Ordinances therein mentioned.

[30th May, 1849.]

WHEREAS it is expedient further to continue the Acts hereinafter mentioned, which would otherwise expire at the end of the present Session: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted

Preamble.

constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the Act of the Parliament of this Province, passed in the Session held in the fourth and fifth years of Her Majesty's Reign, and intituled, *An Act to regulate the Inspection of Beef and Pork*,—and the Act of the said Parliament, passed in the eighth year of Her Majesty's Reign, and intituled, *An Act for the better preservation of the Peace, and the prevention of riots and violent outrages at and near Public Works while in progress of construction*,—and the Act of the said Parliament, passed in the same year of Her Majesty's Reign, and intituled, *An Act to amend the Act and Ordinance therein mentioned relative to the Registration of Titles to and incumbrances upon Real Property in Lower-Canada*,—and the Act of the said Parliament, passed in the same year of Her Majesty's Reign, and intituled, *An Act for the relief of Insolvent Debtors in Upper-Canada, and for other purposes therein mentioned*,—and the Act of the said Parliament, passed in the ninth year of Her Majesty's Reign, and intituled, *An Act to empower Commissioners for inquiring into matters connected with the public business to take evidence on oath*,—and the Act of the Parliament, of the late Province of Lower-Canada, passed in the second year of the Reign of His Majesty King George the Fourth, and intituled, *An Act for the better regulating the Common of the Seigniorie of Laprairie de la Madeleine*,—and the Act of the said Parliament, passed in the same year of the same Reign, and intituled, *An Act to enable the inhabitants of the Seigniorie of La Baie Saint Antoine, commonly called La Baie du Fèbre, to provide for the better regulation of the Common in the said Seigniorie*, as amended and extended by the Act of the said Parliament, passed in the fourth year of the same Reign, and intituled, *An Act to authorize the Chairman and Trustees of the Common of the Seigniorie of the Baie St. Antoine, commonly called the Baie du Fèbre, to terminate certain disputes relating to the limits of the said Common, and for other purposes appertaining to the same*, and the said last mentioned Act,—and the Act of the said Parliament, passed in the third year of the Reign of His late Majesty King William the Fourth, and intituled, *An Act further to suspend certain parts of an Act or Ordinance therein mentioned, and to consolidate and further to continue for a limited time the provisions of two other Acts therein mentioned, for more effectually ascertaining the damages on protested Bills of Exchange, and for determining disputes relating thereto, and for other purposes*,—and the Ordinance of the Special Council of the said Province, passed in the third Session of the said Council, held in the second year of Her Majesty's Reign, and intituled, *An Ordinance to amend the Act passed in the thirty-sixth year of the Reign of King George the Third, chapter nine, commonly called the Road Act*,—and the Ordinance of the said Special Council, passed in the same Session, and intituled, *An Ordinance concerning the erection of Parishes and the building of Churches, Parsonage Houses and Church Yards*, as amended and extended by the Ordinance of the said Special Council, passed in the fourth year of Her Majesty's Reign, and intituled, *An Ordinance to extend the provisions of a certain Ordinance concerning the erection of Parishes for Civil purposes, to Parishes canonically erected before the passing of the said Ordinance*, and the said last mentioned Ordinance,—and the Ordinance of the said Special Council, passed in the third Session of the said Council, held in the second year of Her Majesty's Reign, and intituled, *An Ordinance to provide for the Inspection of Fish and Oil*,—shall be, and all and every the said Acts and Ordinances, are hereby continued to the First day of January next, and from thence until the end of the then next ensuing Session of the Parliament, and no longer; Provided always, that nothing herein

4 and 5 V. c. 88.
8 Vict. c. 6.
8 Vict. c. 27.
8 Vict. c. 43.
9 Vict. c. 38.
2 Geo. 4, c. 8.
2 Geo. 4, c. 10, as amended and extended by—
4 Geo. 4, c. 26.
3 Wm. 4, c. 14.
Ord. Special Coun. 2 Vict. (3) c. 7.
2 Vict. (3) c. 29, as amended and extended by.
4 Vict. c. 23.
2 Vict. (3) c. 65.
Proviso: not

herein contained shall prevent or be construed to prevent the effect of any Act passed or to be passed during the present Session, repealing, amending or continuing to any other period than that herein appointed, any of the Acts or Ordinances hereinbefore mentioned and continued.

to prevent the effect of any Act of this Session.

C A P. XVIII.

An Act to make provision for the continuance and completion of proceedings in Bankruptcy now pending.

[30th May, 1849.]

WHEREAS the Act passed in the seventh year of Her Majesty's Reign, and intituled, *An Act to repeal an Ordinance of Lower-Canada, intituled, 'An Ordinance concerning Bankrupts, and the administration and distribution of their estates and effects,' and to make provision for the same object throughout the Province of Canada,—and the Act amending the same, passed in the ninth year of Her Majesty's Reign, and intituled, 'An Act to continue and amend the Bankrupt Laws now in force in this Province,* would, if no further provision were made in that behalf, expire at the end of this present Session; and whereas it is expedient to continue the said Acts in so far as relates to cases in which Commissions of Bankruptcy have been issued before the passing of this Act: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada,* and it is hereby enacted by the authority of the same, That for and notwithstanding any thing in the Acts cited in the Preamble to this Act or either of them, the said Acts shall respectively be and remain in force until the First day of January, in the year of our Lord, one thousand eight hundred and fifty, and thence until the end of the then next Session of the Provincial Parliament, in so far only as relates to cases in which Commissions of Bankruptcy have issued, and to all rights, claims, liabilities or obligations, proceedings, matters or things arising out of or depending upon the same; but no Commission of Bankruptcy shall, after the passing of this Act, be issued under the said Acts or either of them, nor shall any proceeding preliminary to the issuing of a Commission of Bankruptcy to be had, after that time, be of any force or effect whatsoever.

Preamble.
7 V. c. 10.

9 V. c. 30.

The said Acts continued in so far as regards cases in which commissions have issued.

No commission to issue after the passing of this Act.

II. Provided always, and be it enacted, That from and after the time when the Act passed during the present Session, and intituled, *An Act to amend the Laws relative to the Courts of original Civil Jurisdiction in Lower-Canada,* shall come fully into effect, the powers and duties which by the Acts mentioned in the Preamble to this Act, or either of them, are vested in and assigned to any Circuit or District Judge in Lower-Canada, acting as a Commissioner of Bankrupts or to any Commissioner of Bankrupts, shall be and are hereby assigned to and vested in each of the Judges of the Superior Courts respectively, and such Judges shall respectively be Commissioners of Bankrupts for the Districts in which they shall reside; but if there be more than one Judge of the Superior Court residing at such place, it shall be lawful for the Governor of this Province,

After the coming into force of the L. C. Judicature Act of this Session, the Judges of the Superior Court to have the powers of the commissioners of Bankrupts.

Provisions if there be more than one

Province,

Judge of the Superior Court in the District.

Proviso as to the Court of Review for Gaspé.

Proviso: commissioners of Bankrupts may be appointed, if the Governor deems it necessary.

Power of present commissioners to cease when the L. C. Judicature Act of this Session comes into force.

Act, &c. repealed by the said Acts, not to revive by their expiration.

Province, through the Provincial Secretary, from time to time to indicate the Judge by whom such powers shall be exercised, and such duties shall be performed, in order as far as possible to prevent its happening that more than one Judge shall be disqualified to sit in the Superior Court when acting as the Court of Review which it is hereby declared to be; Provided always, that after the said Act shall come fully into effect, the Superior Court at Quebec, and not at Percy or New-Carlisle, shall be the Court of Review for the District of Gaspé; And provided also, that notwithstanding any thing herein contained, or in the said Acts, a Commissioner of Bankrupts may be appointed at any place in Lower-Canada, and for the District in which such place shall lie, if the Governor shall deem such appointment requisite for the public good; Provided also, that when the Act, last cited, shall come into effect, the Commissions, Functions and Duties of the Commissioners of Bankrupts named in virtue of the Acts cited in the Preamble to this Act, or of either of them, so far as relates to Lower-Canada, shall cease and determine.

III. And be it enacted, That the expiration of the said Acts or either of them or of any portion or provision thereof, shall not be construed to revive any Act or Ordinance repealed by them or either of them, but the same shall be and remain repealed.

C A P. XIX.

An Act for better giving effect, within this Province, to a Treaty between Her Majesty and the United States of America, for the apprehension and surrender of certain Offenders.

[30th May, 1849.]

Preamble.

Treaty with U. S. 9th August, 1812, cited.

WHEREAS by the tenth article of a Treaty between Her Majesty and the United States of America, signed at Washington on the Ninth day of August, in the year one thousand eight hundred and forty-two, the ratifications whereof were exchanged at London, on the Thirtieth day of October, in the same year, it was agreed that Her Majesty and the said United States, should, upon mutual requisitions by them or their Ministers, Officers or authorities respectively made, deliver up to justice all persons who, being charged with the crime of Murder, or Assault with intent to commit Murder, or Piracy, or Arson, or Robbery, or Forgery, or the utterance of Forged Paper, committed within the jurisdiction of either of the High Contracting Parties, should seek an Asylum or should be found within the Territories of the other; provided that this should only be done upon such evidence of criminality as according to the Laws of the place where the fugitive or person so charged should be found, would justify his apprehension and commitment for trial if the crime or offence had been there committed; and that the respective Judges and other Magistrates of the two Governments should have power, jurisdiction and authority, upon complaint made under oath, to issue a Warrant for the apprehension of the fugitive or person so charged, so that he might be brought before such Judges or other Magistrates respectively, to the end that the evidence of criminality might be heard and considered, and if on such hearing the evidence should be deemed sufficient to sustain the charge, it should be the duty of the examining Judge or Magistrate to certify the same to the proper Executive Authority, that a Warrant might issue for the surrender of such fugitive, and that the expense of such

such apprehension and delivery should be borne and defrayed by the party making the requisition and receiving the fugitive; and it is by the eleventh article of the said Treaty further agreed, that the tenth article hereinbefore recited should continue in force until one or other of the High Contracting Parties should signify its wish to terminate it, and no longer: And whereas certain provisions of the Act passed by the Parliament of the United Kingdom of Great Britain and Ireland, in the Session held in the sixth and seventh years of Her Majesty's Reign for giving effect to the Treaty aforesaid, and intituled, *An Act for giving effect to a Treaty between Her Majesty and the United States of America, for the apprehension of certain Offenders*, have been found inconvenient in practice in this Province, and more especially that provision which requires that before any such offender as aforesaid shall be arrested, a Warrant shall issue under the Hand and Seal of the person administering the Government, to signify that such requisition as aforesaid hath been made by the authority of the United States for the delivery of such offender as aforesaid, and to require all Justices of the Peace, and other Magistrates and Officers of Justice, within their several jurisdictions, to govern themselves accordingly, and to aid in apprehending the person so accused, and committing such person to Gaol for the purpose of being delivered up to justice according to the provisions of the said Treaty, inasmuch as by the delay occasioned by compliance with the said provision, an offender may have time afforded him for eluding pursuit: And whereas by the fifth section of the said Act it is enacted, that if by any Law or Ordinance to be hereafter made by the local Legislature of any British Colony or Possession abroad, provision shall be made for carrying into complete effect within such Colony or Possession, the objects of the said Act, by the substitution of some other enactment in lieu thereof, then it shall be competent to Her Majesty, with the advice of Her Privy Council (if to Her Majesty in Council it shall seem meet, but not otherwise) to suspend the operation within any such Colony or Possession of the said Act of the said Imperial Parliament, so long as such substituted enactment shall continue in force there, and no longer: And whereas it is expedient to make provision for carrying the objects of the said Act and Treaty into complete effect within this Province, by the substitution of other enactments in lieu of the said Imperial Act: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*; and it is hereby enacted by the authority of the same, That it shall be lawful for any of the Judges of any of Her Majesty's Superior Courts in this Province, or for any of Her Majesty's Justices of the Peace in the same, and they are hereby severally vested with power, jurisdiction and authority, upon complaint made under oath or affirmation, charging any person found within the limits of this Province with having committed, within the jurisdiction of the United States of America, or of any of such States, any of the crimes enumerated or provided for by the said Treaty, to issue his Warrant for the apprehension of the person so charged, that he may be brought before such Judge or such Justice of the Peace, to the end that the evidence of criminality may be heard and considered; and if, on such hearing, the evidence be deemed sufficient by him to sustain the charge according to the laws of this Province, if the offence alleged had been committed therein, it shall be his duty to certify the same, together with a copy of all the testimony taken before him, to the Governor or Lieutenant-Governor of this Province, or to the Person administering the Government of the same for the time being, that

Imperial Act
6 & 7 Vict.
cited.

By whose
order and on
what evidence
persons charg-
ed with crimes
committed in
the U. S. may
be arrested
and detained.

Proceedings to
be certified to
the Governor.

And the offender to be committed until duly discharged.

Properly attested copies of depositions taken in U. S. to be received as evidence of criminality.

Governor may order the delivery of the offender to the U. S. or to any one of the States.

Offenders escaping may be retaken.

Any person so arrested and not delivered up within two months, may obtain his discharge, unless good cause for his further detention be shewn.

Commencement and duration of this Act.

that a Warrant may issue, upon the requisition of the proper authorities of the said United States or of any of such States, for the surrender of such person, according to the stipulations of the said Treaty; and it shall be the duty of the said Judge or of the said Justice of the Peace to issue his Warrant for the commitment of the person so charged to the proper Gaol, there to remain until such surrender shall be made, or until such person shall be discharged according to law.

II. Provided always, and be it enacted, That in every case of complaint as aforesaid, and of a hearing upon the return of the Warrant of Arrest, copies of the depositions upon which an original Warrant in any of the said United States may have been granted, certified under the hand of the person or persons issuing such Warrant, or under the hand of the Officer or person having the legal custody thereof, and attested upon the oath of the party producing them to be true copies of the original depositions, may be received in evidence of the criminality of the person so apprehended.

III. And be it enacted, That it shall be lawful for the Governor or Lieutenant-Governor of this Province, or the person administering the Government of the same for the time being, upon a requisition made as aforesaid by the authority of the said United States or of any of such States, by Warrant under his hand and seal, to order the person so committed to be delivered to such person or persons as shall be authorized in the name and on the behalf of the said United States or of any of such States, to be tried for the crime of which such person shall be so accused, and such person shall be delivered up accordingly; and it shall be lawful for the person or persons authorized as aforesaid, to hold such person in custody, and to take him or her to the territories of the said United States, pursuant to the said Treaty; and if the person so accused shall escape out of any custody to which he or she shall be committed, or to which he or she shall be delivered as aforesaid, it shall be lawful to retake such person, in the same manner as any person accused of any crime against the laws of this Province, may be retaken upon an escape.

IV. And be it enacted, That when any person who shall have been committed under this Act and the Treaty aforesaid, to remain until delivered up in pursuance of a requisition as aforesaid, shall not be delivered up pursuant thereto, and conveyed out of this Province within two calendar months after such commitment, over and above the time actually required to convey the prisoner from the Gaol to which he or she may have been committed, by the readiest way out of this Province, it shall in every such case, be lawful for any of the Judges of Her Majesty's Superior Courts in this Province, having power to grant a Writ of *Habeas Corpus*, upon application made to him or them by or on behalf of the person so committed, and upon proof made to him or them that reasonable notice of the intention to make such application has been given to the Provincial Secretary, to order the person so committed to be discharged out of custody, unless sufficient cause shall be shewn to such Judge or Judges why such discharge shall not be ordered.

V. And be it enacted, That this Act shall come into force upon the day to be appointed for that purpose in any Proclamation to be issued by the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, for the purpose of promulgating any Order of Her Majesty with the advice of Her Privy Council suspending the operation of the Imperial Act hereinbefore cited within this Province, and not before, and shall thereafter continue in force during the continuance of the tenth article of the said Treaty, and no longer.

C A P. X X.

An Act to amend the Criminal Law of this Province relating to the offences of Arson and Counterfeiting Coin.

[30th May, 1849.]

WHEREAS defects exist in the law touching the counterfeiting Coin and Arson, and it is expedient to amend the same: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That if any person shall falsely make or counterfeit, or cause to be made or counterfeited, any coin resembling, or apparently intended to resemble or pass for any of the Queen's current gold or silver coin, or any of the gold or silver coin made or declared to be lawfully current in this Province, such person shall be guilty of a misdemeanor, and on being duly convicted thereof, shall be liable to be imprisoned and kept at hard labour in the Provincial Penitentiary for not more than four years; and if such person shall afterwards offend in like manner, he or she shall, for such second or for any subsequent offence, be deemed guilty of felony, and on being thereof duly convicted, shall be liable to the punishment by law provided for felony.

Preamble.

Punishment of persons counterfeiting current coin.
First offence.

Second or subsequent offence.

Difference of date between the forged coin, die, &c. and true coin not to be a ground of acquittal.

Setting fire to any school-house, seminary, &c. to be felony,

How punishable.

Owners need not be named in the indictment.

II. And be it enacted, That upon the trial of any person accused of any offence alleged to have been committed against the form of the Act passed in the Session of this Parliament which was held in the fourth and fifth years of Her Majesty's Reign, intituled, *An Act to regulate the Currency of this Province*, or against the provisions of this Act, no difference in the date or year marked upon the lawfully current coin described in the indictment, and the date or year marked upon the false coin counterfeited to resemble or pass for such lawfully current coin, or upon any die, plate, press, tool or instrument used, constructed, devised, adapted or designed, for the purpose of counterfeiting or imitating any such lawfully current coin, shall be considered a just or lawful cause or reason for acquitting any such person of such offence or accusation.

III. And be it enacted, That whosoever shall unlawfully and maliciously set fire to any school-house, lecture room, seminary of learning, college or building used for the purpose of education, or to any Village, Town or City Hall, or to any Rail-road station house, steam or fire engine-house or toll booth, or to any building used or employed as a Mechanics' Institute, or as a public library, or to any hall or building used by any body or society of persons, by whatever name or designation they may be known, and whether they be associated together for educational, philanthropic or benevolent purposes, or for any other lawful purpose, or to any museum or repository of curiosities, shall be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the Court, to be imprisoned at hard labour in the Provincial Penitentiary for the term of his natural life, or for any term not less than three years, or to be imprisoned in any other prison or place of confinement for any term not exceeding two years, and further that it shall not be necessary to allege or set out in the Indictment the name of the owner of any such building.

CAP. XXI.

An Act for the Removal of Defects in the administration of Criminal Justice.

[30th May, 1849.]

Preamble.

WHEREAS the technical strictness of Criminal Proceedings might in some instances be further relaxed, so as to insure the punishment of the guilty, without depriving the accused of any just means of defence; and whereas, according to the present practice of Courts of Criminal Jurisdiction it is not permitted in an Indictment for stealing property to add a Count for receiving the same property, knowing it to have been stolen, or in an Indictment for receiving stolen property, knowing it to have been stolen, to add a Count for stealing the same property, and justice is hereby often defeated: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*; and it is hereby enacted by the authority of the same, That from and after the passing of this Act, in any Indictment for feloniously stealing property, it shall be lawful to add a Count for feloniously receiving the same property, knowing it to have been stolen; and in any Indictment for feloniously receiving property, knowing it to have been stolen, it shall be lawful to add a Count for feloniously stealing the same property: And where any such Indictment shall have been preferred and found against any person, the prosecutor shall not be put to his election, but it shall be lawful for the Jury who shall try the same to find a Verdict of Guilty, either of stealing the property or of receiving it knowing it to have been stolen: and if such Indictment shall have been preferred and found against two or more persons, it shall be lawful for the Jury who shall try the same, to find all or any of the said persons guilty, either of stealing the property or of receiving it, knowing it to have been stolen; or to find one or more persons guilty of stealing the property, and the other or others of them guilty of receiving it knowing it to have been stolen.

In an indictment for stealing a Count may be inserted for receiving; And *vice versa*. Prosecutor not to be put to his election; but the jury may find a verdict on either count. As to indictments against two or more persons.

Recital.

II. And whereas a failure of Justice frequently takes place in Criminal Trials, by reason of variances between writings produced in evidence, and the recital or setting forth thereof, in the Indictment or information, and the same cannot now be amended at the Trial, except in cases of misdemeanor: For remedy thereof—Be it enacted, That it shall and may be lawful for any Court of Queen's Bench, or other Superior Court of Criminal Jurisdiction in Lower-Canada, or of Oyer and Terminer, and General Gaol Delivery in any part of this Province, if such Court shall see fit so to do, to cause the Indictment or information for any offence whatever, when any variance or variances shall appear between any matter in writing or in print produced in evidence, and the recital or setting forth thereof, in the Indictment or information, whereon the trial is pending, to be forthwith amended in such particular or particulars by some Officer of the Court, and after such amendment the trial shall proceed in the same manner in all respects, both with regard to the liability of witnesses, to be indicted for perjury, and otherwise, as if no such variance or variances had appeared.

Indictment, &c. may be amended by order of the court in case of variance between a writing produced and that recited.

Effect of such amendment.

CAP. XXII.

An Act to amend the law regulating Inland Bills of Exchange and Promissory Notes, and the protesting thereof, and Foreign Bills, in certain cases.

[30th May, 1849.]

WHEREAS it is expedient to revise the laws relating to Inland Bills of Exchange and Promissory Notes, and to render more uniform the protesting thereof, and the practice in that behalf: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That on and from the day when this Act shall come into force, an Act of the Parliament of Lower-Canada, passed in the thirty-fourth year of the Reign of King George the Third, intituled, *An Act to facilitate the negotiation of Promissory Notes*, shall be and is hereby repealed.

Preamble.

Act of L. C.
34 Geo. 3, c. 2,
repealed.

II. And be it enacted, That any Bill drawn or Note made payable to the order of any person, or to the order of the maker or drawer thereof, shall be deemed and taken to be negotiable, and shall be transferable by endorsement either in full or in blank or by delivery, and the holder under a blank endorsement shall have the same remedy by action as if the endorsement were in full.

Bill or Note drawn to order of any person, &c., transferable without notice, by endorsement, &c.

III. And be it enacted, That when the words *value received* shall be expressed on the face of any Bill or Note, value shall be presumed to have been received on every such Bill or Note and endorsement thereon, for the amount thereof.

Provision when a Bill or Note shall express "value received," on its face.

IV. And be it enacted, That no acceptance of any Bill shall be sufficient to bind or charge any person, unless such acceptance shall be in writing on some part of such Bill, or if there be more than one part of such Bill, on one of the said parts.

Acceptance of a Bill must be in writing on such Bill, &c.

V. And be it enacted, That three days of grace, and no more, next after the day when such Bill or Note shall become due and payable or after the day when such Bill shall be presented to the drawer thereof if drawn at sight, shall be allowed for the payment thereof, and shall be reckoned to expire in the afternoon of the third of the said days of grace, unless the said third day shall fall on a Sunday or holy-day, when the next day preceding not being a Sunday or holy-day shall be the last of the days of grace; any thing in any law or usage or custom to the contrary notwithstanding: Provided always, that nothing herein contained shall be construed to entitle the maker of any Note payable on *demand* to any days of grace, or to prevent the holder of any such note from demanding payment for the same at any time, and protesting for non-payment whenever the same shall be refused.

Days of grace allowed.

Proviso.

VI. And be it enacted, That the non-payment of any Bill or Note after the maturity thereof, and on or before the last day of grace, shall *ipso facto* entitle the holder to recover from the party liable on such Bill or Note, in addition to the principal sum thereof,

Non-payment of a Bill or Note on last day of grace,

to entitle holder to recover interest from that day.

thereof, legal interest thereon from the last day of grace, whether such Bill or Note be protested or not.

Bills or Notes, to be deemed payable generally, unless a certain place is specified therein.

Proviso: what shall be deemed a general acceptance, or a qualified one.

VII. And be it enacted, That every such Bill and Note shall be deemed and taken to be payable generally, unless it be expressed in the body thereof that the same is payable at a Bank or other place only, and not otherwise or elsewhere; and every acceptance of a Bill shall be deemed and taken to be a general acceptance, unless the same be expressed to be payable at a Bank or other place only, and not otherwise or elsewhere; and the acceptance on such Bill and the promise on such Note so made payable at a Bank or other place only, and not otherwise and elsewhere as aforesaid, shall be and be taken to be a qualified acceptance of such Bill or promise of such Note: and the acceptor or maker shall not be liable to pay the said Bill or Note, except in default of payment when such payment shall have been first duly demanded at such Bank or other place.

Provision with respect to protesting for non-acceptance.

Proviso as to notice.

VIII. And be it enacted, That whenever any Bill shall be refused acceptance by the drawee thereof, the same may be forthwith protested for non-acceptance; and after due notice of such protest shall have been given to the parties liable on such Bill, the holder thereof may insist on immediate payment from the said parties, and may sue for and recover the amount of such Bill with costs and interest as if the same had matured and been protested for non-payment; Provided always, that when due notice of non-acceptance shall have been given to the said parties, it shall not be necessary afterwards to present the said Bill for payment, or if such presentment be made to give notice of the dishonour.

Duly commissioned Notaries to Note and protest Bills and notes in L. C.—One Notary sufficient.

IX. And be it enacted, That the duty of noting and protesting Bills and protesting Notes shall be performed in Lower-Canada by the Public Notaries for Lower-Canada; and every protest shall be made in duplicate by one Notary underneath or on the back of a copy of the Bill or Note and its endorsements; and no second or countersigning Notary, and no witness, shall be deemed necessary for the perfecting of any act of noting, protesting, or notice made or given by such Notary; any law, usage or custom to the contrary notwithstanding.

Noting for non-acceptance of a Bill to be made underneath or on back of copy of Bill. As to notes protested.

Proviso.

X. And be it enacted, That every noting for non-acceptance of a Bill shall be made underneath, or be endorsed upon the back of a copy of the Bill and endorsements, and filed and kept upon record by the Notary noting the same; and upon every Bill noted or protested for non-acceptance, and every Bill or Note protested for non-payment, the protesting Notary shall write, print or stamp the words "noted for non-acceptance," or "protested for non-acceptance" or "protested for non-payment," (as the case may be), with the date of the noting or protest, and his fees and charges, and shall subscribe thereto his initials, and the usual initial letters designating his office: Provided always, that when a Bill noted for non-acceptance shall afterwards be protested for non-payment, it shall not be necessary to extend a protest for non-acceptance, but the noting and the date thereof, with the name of the Notary by whom the noting was effected, shall be stated in the body of the protest for non-payment.

Service of notice of protest for non-acceptance, or non-

XI. And be it enacted, That notice to any party entitled thereto, of the protest for non-acceptance or for non-payment, shall be deemed sufficient if such notice be given to such party personally or at his residence, office or usual place of business; and in

in case of death or absence at his last residence, office or place of business, or if the said notice directed to such party be deposited in the nearest Post Office communicating with the residence or office or place of business aforesaid of such party, and the postage thereon be pre-paid; and like notice given to the duly appointed and notified assignee of the bankrupt estate of any bankrupt party liable on any Bill or Note, shall be as valid and effectual as if such notice had been given to the bankrupt personally, or at his residence, office or usual place of business, or through the Post Office as aforesaid; Provided always, that in such cases, the Bill shall have been drawn or endorsed, and the Note shall have been endorsed by the bankrupt, before the issuing of the commission of bankruptcy against him.

payment, how made.

Proviso as to Bankrupts.

XII. And be it enacted, That the duplicate protest and duplicate notice aforesaid, with the service of such notice duly attested under the signature of the protesting Notary, shall be deemed and taken by all Courts, and by all persons, and in all places within Lower-Canada, to be *primâ facie* evidence of the truth of the matters in such protest and notice and service thereof respectively set forth as matters of fact; and the same faith and credence shall likewise be given to all copies of the same, attested in like manner to be true copies of the originals thereof remaining of record in the protesting Notary's office.

Duplicate protest of Bill or Note to be *primâ facie* evidence in L. C. &c.

XIII. And be it enacted, That every Bill and Note, payable at such Bank or other place only, and not otherwise or elsewhere, shall at maturity be presented for payment at such Bank or place only; and every Bill and Note payable generally, shall at maturity be presented to the acceptor or maker, either personally or at his then residence or office or usual place of business; or if presentment for payment of any such Bill or Note payable generally, cannot be made to the acceptor or maker as aforesaid, by reason of his absence, and not having any known residence or office or place of business, at or in the place where his Acceptance or Note bears date, by reason of his death, then such presentment for payment of any such Bill or Note shall be deemed good and sufficient if made at the residence or office or usual place of business of such acceptor or maker, or at his last known residence or office or usual place of business, in the said place where the Acceptance or Note bears date.

Bill or Note payable at a specified place, to be presented for payment at that place.

If payable generally.

XIV. And be it enacted, That if at the expiration of the forenoon of the last day of grace any Bill or Note shall be unpaid, the holder thereof may cause the same to be duly presented for payment, and in default thereof to be protested for non-payment; Provided always, that no presentment and protest for non-payment of any Bill or Note, shall be sufficient to charge the parties liable on such Bill or Note, unless such presentment and protest be made in the afternoon of the last day of grace, nor unless also due notice of the protest be given to the said parties as hereinafter provided: And further, provided always, that the liability of such acceptor or maker towards the holder, shall continue in full force and effect, although the liability of the other parties may be discharged from the want or illegality of protest or of notice of protest.

Unpaid Bills may be protested at the expiration of the forenoon of the last day of grace.

Proviso.

Proviso.

XV. And be it enacted, That if a Bill accepted payable generally, or a Note payable generally, shall become due after the appointment and public notification of the appointment of an assignee to the estate of the acceptor or maker as aforesaid, under

Provision when a Bill or Note payable generally shall

become due after the acceptor or promisor becomes a Bankrupt.

Proviso.

a commission of bankruptcy issued against him, the presentment for payment of such Bill or Note may be made either to the bankrupt personally or at his residence or office or usual place of business, or to the assignee personally or at his residence or office or usual place of business; and such presentment shall be as valid and effectual as if the presentment had been made to the bankrupt personally or at his residence or office or usual place of business; Provided however, that the acceptance of the Bill or the making of the Note, shall have been effected before the issuing of such commission against such acceptor or maker.

Effect of notarial service of notice of protest.

Proviso.

XVI. And be it enacted, That any service of notice of protest for non-acceptance or non-payment, if made within three days next after the day upon which such Bill or Note shall have been protested, shall have the same force and effect as if such service had been made upon the day of protesting the same; Provided always, that nothing herein shall be construed to extend the time for protesting any Bill or Note herein provided.

Not requisite to serve notice of noting for non-acceptance.

Proviso: if afterwards protested for non-payment.

XVII. And be it enacted, That whenever any Bill shall be noted for non-acceptance, it shall not be necessary to cause service of notice of the same to be made upon any party liable thereon; Provided always, that whenever any Bill so noted shall afterwards be protested for non-payment, the notice of such protest shall also embody notice of the previous noting for non-acceptance, and shall give the holder of any such Bill the same right to recover from the parties liable thereon, as if they had been severally served with notice of the noting thereof.

Fees in the Schedule to this Act allowed for noting, protesting, &c.

XVIII. And be it enacted, That the several fees and charges mentioned in the schedule to this Act subjoined, relating to the protesting and noting of Bills and Notes, together with the postages pre-paid upon notices deposited at any Post Office as herein provided for, shall and may be claimed from the holder of the Bill or Note by the Notary or Justice performing such duties, and shall be recovered from such parties thereto as shall be liable for the payment of the same.

Penalty on unqualified person noting or protesting bills and notes.

XIX. And be it enacted, That every person who shall represent himself to be a Notary for or Justice of the Peace in Lower-Canada, and who shall act as such in and about the protesting of a Bill or Note, or in and about the noting of a Bill, not being such Notary for or Justice in Lower-Canada, and being convicted thereof, shall be deemed and taken to be guilty of a misdemeanor, and shall be punished by imprisonment for the space of not more than six months.

Justices of the Peace where there are no Notaries, &c., may note and protest Bills and Notes.

Proviso: facts to be stated in the Protest, &c.

XX. And be it enacted, That in places where the holder of a Bill or Note shall be prevented from employing a Notary, by reason of there being none resident practising therein, or by reason of the absence or disability from sickness or otherwise of such Notary, it shall be lawful for any Justice of the Peace duly commissioned and sworn in Lower-Canada, to make such noting and protest and to give notice of the same; and all such acts done by any such Justice shall have the same force and virtue as if the same had been done by a Notary; Provided that such Justice shall state and set forth in the body or preamble of such protest, the particulars and reasons wherefore the same could not be done and performed by a Notary; and a certificate and duplicate copy of such protest or noting, containing such reasons, under the hand and seal of such Justice, shall be deemed and taken to be sufficient proof in any Court in Lower-Canada of the truth thereof.

XXI. And be it enacted, That in the discounting of any Bill or Note, it shall be lawful for any person to retain, receive or charge the amount of the discount or interest upon the principal sum therein specified at the time the same shall be discounted or received.

Discount may be retained at time of discounting.

XXII. And be it enacted, That it shall be lawful for any person who shall discount or receive any Bill or Note payable in Lower-Canada, but at a distance from the place wherein the same shall be discounted or received, to charge, retain or receive over and above the legal interest upon any such Bill or Note, a commission sufficient to defray any agency, expense or exchange attending the collection thereof; and the holder shall, notwithstanding such commission, have the same right to recover the full amount of any such Bill or Note, with any interest thereon accrued after maturity and protest, as he would have had if no more than interest had been charged, retained or received thereupon: Provided always, that such commission shall in no wise exceed the rate of one per centum upon the amount of such Bill or Note.

Commission may be retained in addition to discount in certain cases.

Proviso: not to exceed 1 per cent.

XXIII. And whereas by law all contracts and assurances whatsoever for payment of money made for an usurious consideration are utterly void; and whereas in the course of mercantile transactions, negotiable securities often pass into the hands of persons who have discounted the same without any knowledge of the original conditions for which the same were given; and the avoidance of such securities in the hands of such *bonâ fide* indorsees without notice, is attended with great hardships and injustice: For remedy thereof—Be it therefore enacted, That no Bill or Note that shall be drawn or made after the passing of this Act shall, though it may have been given for an usurious consideration, or upon an usurious contract, be void in the hands of an endorsee, or in the case of a Note transferable by delivery, in the hands of a person who shall have acquired the same as bearer for valuable consideration, unless such endorsee or bearer had, at the time of discounting or paying such consideration for the same, actual knowledge that such Bill or Note had been originally given for an usurious consideration or upon an usurious contract.

Recital.

Usurious consideration not to affect a *bonâ fide* indorsee, &c. without notice.

XXIV. And be it enacted, That in every action and claim founded upon a Bill or Note, any party to which is designated on such Bill or Note by the initial letters or some contraction of his Christian or first name or names, it shall be sufficient in every affidavit to hold to bail, and in the Writ or Process and declaration or claim, to designate such person by the same initial letter or letters or contraction of his Christian name or first name or names, instead of stating the same in full.

In actions, &c., on Bills or Notes, initials, &c., of christian names sufficient.

XXV. And be it enacted, That in all matters relating to Bills and Notes not herein specially provided for, recourse shall be had in all Courts in Lower-Canada, to the laws now in force there, and in the absence of such laws, to the laws of England in force at the time of the passing of this Act, and in the investigation of all facts in actions and suits founded upon Bills and Notes, recourse shall be had in all such Courts to the laws of England in force at the time of the passing of this Act; Provided always, that Bills or Notes made or endorsed by persons not traders shall be subjected, in matters of proof thereon, to the said laws of England; and provided always, that nothing herein contained shall be construed to debar the parties to such actions and claims, from examining each other upon of interrogatories *sur faits et articles*, or upon the *serment décisoire*, or to debar the Judges of the Courts from deferring

In actions on Bills and Notes in L. C. recourse to be had to English laws, if the law of L. C. be silent; and as to the evidence in all cases.

Proviso.

deferring to any of the parties to such actions and claims, the oaths known as the *juramentum judiciale*, or *juramentum suppletorium*, and the *juramentum in litem*.

What shall be
holy-days
under this Act.

XXVI. And be it enacted, That none other than the New Year's or Circumcision day, the Epiphany or Twelfth day, Annunciation day, Good-Friday, Ascension day, Corpus Christi day, St. Peter and St. Paul's day, All Saints day, Conception day, and Christmas day, the anniversary of and day fixed to celebrate the birth-day of our Sovereign, and any day appointed by Royal Proclamation or by Proclamation of the Governor-General or Person administering the Government of this Province, for a Solemn Fast or as a day of Thanksgiving, shall be deemed and taken to be a holy-day within the meaning of this Act.

Interpretation
clause.

XXVII. And be it enacted, That wherever in this Act, with reference to any person, matter or thing, any word or words is or are used, importing the singular number or the masculine gender only, such word or words shall be understood and construed to include several persons as well as one person, females as well as males, bodies politic or corporate as well as individuals, and several matters or things, as well as one matter or thing, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction.

Nothing here-
in to repeal or
alter L. C. 2.
Vict. (3). c.
57 as amend-
ed by 17 sect.
of 3 and 4
Vict. c. 15.

XXVIII. And be it enacted, That nothing in this Act contained shall be construed to be a repeal or alteration of any of the provisions contained in an Ordinance of the Province of Lower-Canada, passed in the second year of Her Majesty's Reign, intituled, *An Ordinance to regulate Private Banking, and the circulation of the Notes of Private Bankers*, as amended and made permanent by the seventeenth section of a certain other Ordinance of the Province of Lower-Canada, passed in the Session held in the third and fourth years of Her Majesty's Reign, intituled, *An Ordinance to render permanent certain Ordinances therein mentioned, and to amend one of the said Ordinances*.

Forms to be
those in the
Schedules.

XXIX. And be it enacted, That the several notings, protests, notices thereof, and services of notice hereinbefore mentioned, shall be in the forms of the several Schedules of forms to this Act subjoined.

A Bill drawn
abroad and
payable in L.
C. to be sub-
ject to this Act
in certain
particulars.

XXX. And whereas it is expedient to make provision for certain particulars in Foreign Bills of Exchange; Be it therefore enacted, That all Bills drawn abroad upon any person in Lower-Canada, or payable or accepted at any place within Lower-Canada, shall as to all parties resident therein and liable on such Bills, be subjected to the provisions of this Act with respect to the days of grace for payment of the same, and commission and interest thereon and both noting and protesting of such Bills for non-acceptance, and non-payment, and the notification and service of such protest.

Limitation of
actions on
Bills payable
in L. C.

XXXI. And be it enacted, That all Bills whether Foreign or Inland and all Notes, due and payable in Lower-Canada at the time when this Act shall come into force, shall be held and taken to be absolutely paid and discharged if no suit or action is brought thereon, within five years next after the day on which such Bills or Notes shall become due and payable, and all such Bills and Notes made and not due when, or to be made after this Act shall come into force, shall be held and taken

taken to be absolutely paid and discharged if no such suit or action is brought thereon, within five years next after the day on which such Bills or Notes shall become due and payable.

XXXII. And be it enacted, That this Act shall commence and take effect on and from the first day of August next after the passing thereof.

Commencement of this Act.

SCHEDULE

OF FEES AND CHARGES.

	£	s.	d.
For presenting and noting for non-acceptance, any Inland Bill of Exchange, and keeping the same on record.....	0	5	0
Copy of the same when required by the holder.....	0	2	6
For protesting for non-payment, any Inland Bill of Exchange or Promissory Note, and putting the same on record.....	0	7	6
For making and furnishing the holder of any Bill or Note, with duplicate Copy of any protest for non-acceptance or non-payment, with certificate of service and copy of notice served upon the drawer and endorsers...	0	2	6
For every Notice, including the service and recording copy of the same, to an endorser or drawer.....	0	2	6
Exclusive of actual travelling expense incurred by the Notary for travelling one mile from his residence, and two shillings and six pence for his professional services, if within one league, five shillings, if within two leagues, and seven shillings and six pence, if within any further distance.			

SCHEDULE No. 1.

NOTING FOR NON-ACCEPTANCE.

(Copy of Bill and Endorsements.)

On the 18, the above Bill was by me, at the request of, presented for acceptance to E. F., the drawee, personally (or, at his residence, office or usual place of business in the city, town or village of,) and I received for answer, " "; The said Bill is therefore noted for non-acceptance.

A. B.,
Not. Pub.

18 .

Due

Due notice of the above was by me served upon { A. B., } the { drawer, }
 { C. D., } { endorser, }
 personally, on the _____ day of _____, (or, at his residence, office or usual
 place of business in _____,) on the _____ day of _____, (or, by
 depositing such notice, directed to him at _____, in Her Majesty's Post Office
 in this city, town or village, on the _____ day of _____, and pre-paying the
 postage thereon.)

A. B.,
 Not. Pub.

18 .

SCHEDULE No. 2.

PROTEST for non-acceptance or for non-payment of a BILL payable generally.

Copy of Bill and Endorsements.

On this _____ day of _____ in the year 18 _____, I, A. B., Notary
 Public, for Lower-Canada, dwelling at _____ in Lower-Canada, at the request
 of _____ did exhibit the original Bill of Exchange, whereof a true
 copy is above written, unto E. F., the { drawee }
 { acceptor } thereof, personally, (or, at his
 residence, office or usual place of business in _____,) and, speaking to
 himself (or his wife, his clerk, or his servant, &c.,) did demand { acceptance }
 { payment }
 thereof; unto which demand { he }
 { she } answered, “ _____ ”

Wherefore I, the said Notary, at the request aforesaid, have protested, and by
 these presents do protest against the acceptor, drawer and endorsers (or, drawer and
 endorsers) of the said Bill, and other parties thereto, or therein concerned, for all
 exchange, re-exchange, and all costs, damages and interest, present and to come, for
 want of { acceptance }
 { payment } of the said Bill.

All which I attest under my signature.
 (Protested in duplicate.)

A. B.,
 Not. Pub.

SCHEDULE No. 3.

PROTEST for non-acceptance or for non-payment of a BILL payable at a specified place.

(Copy of Bill and Endorsements.)

On this _____ day of _____ in the year 18 _____, I, A. B., Notary
 Public for Lower-Canada, dwelling at _____ in Lower-Canada, at the
 request of _____, did exhibit the original Bill of Exchange whereof a true
 copy is above written, unto E. F., the { drawee }
 { acceptor } thereof, at _____,
 being the specified place where the said Bill is payable, and there, speaking to
 _____, did demand { acceptance }
 { payment } of the said bill; unto which demand he
 answered, “ _____ ”

Wherefore

Wherefore I, the said Notary, at the request aforesaid, have protested, and by these presents do protest against the acceptor, drawer and endorsers, (*or*, drawer and endorsers) of the said Bill, and all other parties thereto, or therein concerned, for all exchange, re-exchange, and all costs, damages and interest, present and to come, for want of { acceptance } of the said Bill.
 { payment }

All which I attest under my signature.

(Protested in duplicate.)

A. B.,
Not. Pub.

SCHEDULE No. 4.

PROTEST for non-payment of a BILL NOTED, but not protested, for non-acceptance.

If the Protest be made by the same Notary who noted the bill, it should immediately follow the act of noting and memorandum of service thereof, beginning with the words "And afterwards, on, &c.," continuing as in the last preceding form, but introducing between the words "did exhibit," the word "again"; and, in a parenthesis, between the words "written, unto," the words ("and which Bill was by me duly noted for non-acceptance on the day of last.")

But if the Protest be not made by the same Notary, then it should follow a copy of the original Bill and endorsements and noting marked on the Bill,—and then in the Protest introduce in a parenthesis, between the words "written, unto," the words ("and which Bill was on the day of last, by , Public Notary for Lower-Canada, noted for non-acceptance, as appears by his note thereof marked on the said Bill.)

SCHEDULE No. 5.

PROTEST for non-payment of a NOTE PAYABLE GENERALLY.

(*Copy of Note and Endorsements.*)

On this day of in the year 18 , I, A. B.,
 Notary Public for Lower-Canada, dwelling at , in Lower-Canada, at the
 request of did exhibit the original Promissory Note, whereof a true copy
 is above written, unto the promissor, personally, (*or*, at his
 residence, office or usual place of business in) and speaking to himself,
 (*or* his wife, his clerk, *or* his servant, &c.,) did demand payment thereof; unto which
 demand { he } answered, "
 { she } "

Wherefore

Wherefore I, the said Notary, at the request aforesaid, have protested, and by these presents do protest against the promissor and endorsers of the said Note, and all other parties thereto or therein concerned, for all costs, damages and interest present and to come, for want of payment of the said Note.

All which I attest under my signature.

(Protested in duplicate.)

A. B.,
Not. Pub.

SCHEDULE No. 6.

PROTEST for non-payment of a NOTE payable at a particular place.

(Copy of Note and Endorsements.)

On this _____ day of _____ in the year 18____, I, A. B., Notary Public for Lower-Canada, dwelling at _____, in Lower-Canada, at the request of _____ did exhibit the original Promissory Note whereof a true copy is above written, unto _____, the promissor, at _____, being the particular place where the said Note is payable, and there, speaking to _____, did demand payment of the said Note; unto which demand, he answered, “_____.”

Wherefore I, the said Notary, at the request aforesaid, have protested, and by these presents do protest against the promissor and endorsers of the said note, and all other parties thereto, or therein concerned, for all costs, damages and interests, present and to come, for want of payment of the said Note.

All which I attest under my signature.

(Protested in duplicate.)

A. B.,
Not. Pub.

SCHEDULE No. 7.

NOTARIAL NOTICE of a Noting, or of a Protest for non-acceptance, or of a Protest for non-payment of a BILL.

(Place and date of Noting or of Protest.)

1st.

To P. Q., (the drawer.)

at

Sir,

Your Bill of Exchange for £ _____, dated at _____ the _____ upon E. F., in favor of C. D., payable _____ days after { sight, } was this day, at the request of _____, duly { noted } by me for { non-acceptance. } { protested } { non-payment. }

A. B.,
Not. Pub.

(Place and date of Noting or of Protest.)

2nd.

2nd.

To C. D. (endorser,) (or F. G.)

at Sir,

Mr. P. Q.'s Bill of Exchange for £ dated at upon E. F., in your favor (or in favor of C. D.,) payable

the days after { sight, } { date, } , duly { noted } { protested }

and by you endorsed, was this day at the request of

by me for { non-acceptance. } { non-payment. }

A. B., Not. Pub.

SCHEDULE No. 8.

NOTARIAL NOTICE of Protest for non-payment of a NOTE.

(Place and date of Protest.)

To at Sir,

Mr. P. Q.'s Promissory Note for £ dated at the

payable { days } { months } after date to { you, } { E. F. } or order, and endorsed by you, was this day, at the request of , duly protested by me for non-payment.

A. B. Not. Pub.

SCHEDULE No. 9.

Act of Notarial SERVICE OF NOTICE of a Protest for non-acceptance or non-payment of a Bill, or of non-payment of a Note (to be subjoined to the Protest.)

And afterwards, I, the aforesaid protesting Notary Public, did serve due notice in the form prescribed by law, of the foregoing Protest, for { non-acceptance } { non-payment } of the { bill } { note } thereby protested upon { P. Q., } { C. D., } the { drawer } { indorser } personally, on the day of (or, at his residence, office, or usual place of business in , on the day of ; or, by depositing such notice, directed to the said { P. Q., } { C. D., } at , in Her Majesty's Post-Office in this city, (town, or village,) on the day of , and prepaying the postage thereon.)

In

In testimony whereof, I have, on the last mentioned day and year, at aforesaid, signed these presents.

A. B.,
Not. Pub.

SCHEDULE No. 10.

PROTEST by a JUSTICE OF THE PEACE (*where there is no Notary*) for non-acceptance of a Bill, or non-payment of a Bill or Note.

(*Copy of Bill or Note and Endorsements.*)

On this day of , in the year 18 , I, N. O., one of Her Majesty's Justices of the Peace for the District of , in Lower-Canada, dwelling at (*or near*) the village of , in the said District, (there being no practising Notary Public resident at or near the said village, or any other legal cause,) did, at the request of and in presence of , a householder in the said District, well known unto me, exhibit the original { bill } { note } whereof a true copy is above written unto P. Q., the { drawer } { acceptor } { promissor } thereof, personally, (*or, at his residence, office, or usual place of business in , and speaking to himself, his wife, his clerk or his servant, &c.,*) did demand { acceptance } { payment } thereof, unto which demand { he } { she } answered, “ .”

Wherefore I, the said Justice of the Peace, at the request aforesaid, have protested and by these presents do protest against the { drawer and endorsers } { promissor and endorsers } { acceptor, drawer and endorsers } of the said { bill, } { note, } and all other parties thereto and therein concerned, for all exchange, re-exchange, and all costs, damages and interest, present and to come, for want of { acceptance } { payment } of the said { bill, } { note. }

All which is by these presents attested under the signature of the said (*the witness*) and under my hand and seal.

(Protested in duplicate.)

(*Signature of the witness.*)

(*Signature and seal of the J. P.*)

CAP. XXIII.

An Act to provide for the Seizure and Sale of Shares in the Capital Stock of Incorporated Companies.

[30th May, 1849.]

WHEREAS it is expedient to make better provision for the Seizure and Sale of Shares and Dividends of the Stockholders of all Incorporated Companies: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That all Shares and Dividends of Stockholders in Incorporated Companies shall be held, considered and adjudged to be personal property, and shall be liable as such to *bonâ file* creditors for debts, and may be attached, seized and sold under Writs of Execution issued out of any of Her Majesty's Courts in this Province, in like manner as other personal property may be sold under execution; and that whenever any such shares shall have been sold under a Writ of Execution, the Sheriff, by whom such Writ shall have been executed, shall, within ten days after such sale, serve upon such Incorporated Company, at some place where service of process upon such Company may be made, an Attested Copy of such Writ of Execution, with his Certificate endorsed thereon, certifying to whom the sale of the said Shares under the said Writ of Execution has been by him made, and the person or persons who shall have purchased such Share or Shares so sold under such Writ of Execution; and the person or persons so purchasing shall thereafter be held and considered as Stockholder or Stockholders of the said Shares, and shall have the same rights, and be under the same obligations as if he or they had purchased the said Shares from the proprietors thereof, in such form as may be by law provided for the transfer of Stock in such Company; and it shall be the duty of the proper Officer of the Company to enter such sale as a transfer in the manner by law provided.

II. And be it enacted, That it shall be the duty of the Sheriff to whom any such Writ of Execution, as aforesaid, shall be addressed, on being informed on behalf of the Plaintiff that the Defendant has Stock in any Incorporated Company, and that such Sheriff is required to seize such Stock, forthwith to serve a copy of such Writ on such Company, with a notice that all the Shares which the Defendant may have in the Stock of such Company are seized accordingly; and from the time of such service no transfer of such Stock by the Defendant shall be valid, unless or until the said seizure shall be discharged; and every such seizure, and any sale made under the same, shall include all Dividends, Premiums, Bonuses, or other pecuniary profits upon the Shares seized, which shall not after such notice as aforesaid, be paid by such Company to any party, except the party to whom the Shares shall be sold by the Sheriff, unless and until the seizure be discharged, on pain of paying the same twice.

III. Provided always, and be it enacted, That if the Company shall have more than one place where service of process may legally be made upon them, and there be some place where transfers of Stock may be notified to and entered by the Company so as to be valid as regards the Company, or where any Dividends or Profits as aforesaid, on Stock

Preamble.

Shares and Dividends of Stockholders in incorporated Companies held to be personal property, and liable to be seized and sold under execution
Mode of proceeding to such sale, &c.

Sheriff to serve a copy of the Writ on the Company, with notice of seizure.

Stock not to be transferred while under seizure, and sale under seizure to include all Dividends, &c.

Provision for the case of the Company having more than one place where service

of process may
legally be
made upon
them.

Stock may be paid, other than the place where service of such notice shall have been made, such notice shall not affect any transfer or payment of Dividends or Profits duly made and entered at any such other place, so as to subject the Company to pay twice, or to affect the rights of any *bona fide* purchaser, until after the expiration of a period from the time of service sufficient for the transmission of notice of such service by Post from the place where it was made to such other place, which notice it shall be the business of the Company to transmit by Post to such other place.

Shares de-
clared to be
personal pro-
perty found by
the Sheriff.

IV. And be it enacted, That the Shares in the Stock of any Company shall be held to be personal property, found by the Sheriff in the place where notice of the seizure thereof shall be made as aforesaid.

Saving of all
remedies at
common law.

V. And be it enacted, That nothing in this Act shall be construed to weaken the effect of any remedy which such Plaintiff, as aforesaid, might, without this Act, have had against any Shares of such Stock as aforesaid, by *saisie arrêt* attachment or otherwise, but on the contrary, the provisions of the three next preceding sections shall apply to such remedy in so far as they can be applied thereto.

What shall be
deemed incor-
porated Com-
panies.

VI. And be it enacted, That all Corporations, established for purposes of trade or profit, or for the construction of any work, or for any purpose from which revenue is intended to be derived, shall be deemed Incorporated Companies for the purposes of this Act, although they be not called Companies in the Act or Charter incorporating them.

C A P. XXIV.

An Act to consolidate and amend the Laws of Patents for Inventions in this Province.

[30th May, 1849.]

Preamble.

L. C., 6 Wm.
4, c. 34.

U. C., 7 Geo.
4, c. 5.

Who may
obtain a patent
and mode of

WHEREAS the Acts severally in force in Upper-Canada and in Lower-Canada, for the encouragement of useful Arts, namely the Act of the heretofore Province of Lower-Canada, passed in the sixth year of the Reign of His late Majesty, King William the Fourth, intituled, *An Act to repeal certain Acts therein mentioned, and to consolidate the provisions therein made for the encouragement of useful Arts in this Province*,—and the Act of the heretofore Province of Upper-Canada, passed in the seventh year of the Reign of His late Majesty, King George the Fourth, intituled, *An Act to encourage the progress of useful Arts within this Province*, differ in several particulars, and it is expedient to assimilate the provisions of the law in this respect, and to amend and modify the said Acts, and to extend the advantages and privileges of Patent Rights hereafter to be granted, and to make the same co-extensive with the Province of Canada: Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That any person a subject of Her Majesty and resident in this Province having discovered

discovered or invented any new and useful art, machine, manufacture, or composition of matter, or any new and useful improvement on any art, machine, manufacture, or composition of matter, or the principle thereof, the same not being known or used in this Province by others before his or their discovery or invention thereof, and not at the time of the application for a Patent in public use or on sale in this Province with his consent or allowance, as the inventor or discoverer thereof, and desiring to obtain an exclusive property therein, may make application by petition, in the manner provided in and by the said recited Acts, to the Governor or Administrator of the Government of this Province, expressing such desire, and the said Governor or Administrator shall, on the due proceedings being had as by the said Acts directed to be done, grant such Patent, which shall be good and available to the said grantee, his heirs, lawful representatives, or assigns, for the period of fourteen years from the granting of the same, after the said Letters Patent shall have been recorded in the manner directed by the said Acts, and upon the assignment of the same previous to the grant aforesaid, for the same period, after such assignment shall have been recorded in the office of the Secretary of the Province.

proceeding to obtain one.

Effect of the patent.

II. And be it enacted, That in any action for damages for making, using or selling the thing whereof the exclusive right is secured by any Patent heretofore granted or to be hereafter granted, the issue shall be tried by a jury, and if a verdict shall be rendered for the Plaintiff in such action, it shall be in the power of the Court to render judgment on such verdict, to the amount found by such verdict, as the actual damages sustained by the Plaintiff, with treble costs, and such judgment shall be enforced and recovered in the same manner and by the same proceedings at law, as are used and in practice in that part of this Province in which the action shall be brought, as to any other judgment for damages; Provided always, that nothing herein contained shall have the effect or be construed to have the effect of depriving a Defendant in any such action from specially pleading the matter of defence to the said action, specified and detailed in the said Acts; And further provided, that whenever it shall satisfactorily appear that the Patentee at the time of making his application for the Patent, believed himself to be the first inventor or discoverer of the thing patented, the same shall not be held to be void on account of the invention or discovery or part thereof, having been before known or used in a foreign country, it not appearing that the same or any material or substantial part thereof, had before been patented or described in any printed publication; And provided also, that whenever the Plaintiff shall fail to sustain his action, on the ground that in his specification of claim is embraced more than that of which he was the first inventor or discoverer, or if it shall appear that the Defendant had used or violated any part of the invention, justly and truly specified and claimed as new, it shall be in the power of the Court to adjudge and award as to costs, as may appear to be just and equitable.

In actions for damages for infringement of rights granted by patent, the court may grant treble costs.

Proviso as to matter of defence.

Proviso: patent not void, in certain cases, altho' if the discovery was known in a foreign country.

Proviso. Court may adjudge as to costs although the plaintiff fails in his action.

III. And be it enacted, That when any such subject being an inhabitant of the said Province as aforesaid, hath made or shall have made any new invention, discovery or improvement, on account of which a Patent might, by virtue of the said recited Acts or of this Act, be granted, and such person shall die before any Patent shall be granted therefor, the right of applying for and obtaining such Patent shall devolve on the Executor or Administrator of such person in trust for the heir at law of the deceased, in case he shall have died intestate, or on his legal representative in any other case, in as full and ample a manner, and under the same conditions, limitations and restrictions, as the

Right of obtaining a patent to devolve on the legal representative, in case of the inventor's decease before a patent is granted.

As to the declaration in such case.

the same was held or might have been claimed or enjoyed by the deceased in his lifetime; and when the application shall be made by such executor, administrator or representative, the declaration required to be made and taken shall be so varied as to be applicable to him.

Arbitration in case of interfering applications.

Proviso as to parties having taken patent in a foreign country.

IV. And be it enacted, That in case of interfering applications for Patents, the decision of the same shall be made by Arbitrators in the manner and according to the directions in the said recited Acts contained: Provided always, that nothing in the said Acts nor in this Act contained shall be construed to deprive an original and true inventor of the right to a Patent for his invention by reason of his having previously taken out Letters Patent therefor in a foreign country, and of the same having been published at any time within six months next preceding the filing of his specification and drawing, as required by the said Acts or by this Act.

Patents to be assignable in Law as to the whole or any undivided part of the interest therein, and how assigned.

V. And be it enacted, That every Patent shall be assignable in law either as to the whole interest or any undivided part thereof, by an instrument in writing, which assignment and also every grant and conveyance of the exclusive right under any Patent to make and use and to grant to others to make and use the thing patented within and throughout this Province, shall be recorded in the Office of the Provincial Secretary within two months from the execution thereof.

Patents may be issued to Assignees of inventors.

Duplicate drawings to be furnished hereafter by applicants.

VI. And be it enacted, That every Patent hereafter to be issued may be made and issued to the Assignee or Assignees of the inventor or discoverer, the assignment thereof being first entered as aforesaid, and the application therefor being duly made, and specifications duly and solemnly declared by the said inventor; and in all cases the applicant for a Patent hereafter to be granted shall be held to furnish duplicate drawings, whenever the case admits of drawings, one of which shall be deposited in the Office of the Provincial Secretary, and the other shall be annexed to the Patent, and considered a part of the specification thereof, and a copy of the specification shall be in all cases annexed to such Patent.

A new patent may be obtained in certain cases, upon surrender of the defective one.

VII. And be it enacted, That whenever any Patent heretofore granted or hereafter to be granted as aforesaid shall be inoperative or invalid by reason of a defective or insufficient description or specification, if the error have or shall have arisen from inadvertency, accident or mistake, and without any fraudulent or deceptive intention, it shall be lawful for the Patentee to surrender such Patent and to obtain a new Patent to be issued to him for the same invention for the residue of the unexpired period of the original Patent, in accordance with the Patentee's corrected description and specification: and in case of his death or of any assignment by him made of the original Patent, a similar right shall vest in his executor, administrator or legal representative, and the Patent so re-issued, together with the corrected description and specification thereof, shall have the same effect and operation in law on the trial of all actions thereafter commenced for causes subsequently accruing as if the same had been originally filed in such corrected form before the issuing of the original Patent.

Effect of the amended patent.

Provision with respect to patentee who has made his specification

VIII. And be it enacted, That whenever, by mistake, accident or inadvertence, and without any wilful default or intent to defraud or mislead the public, any Patentee shall have made his specification of claim too broad, claiming more than that of which he was the original or first inventor, some material and substantial part of the thing patented

patented being truly and justly his own, or shall have in his specification claimed to be the original and first inventor or discoverer, of any material or substantial part of the thing patented, of which he was not the first and original inventor, and shall have no legal or just right to claim the same, in every such case the said Patentee, his executor, administrator, legal representative or assigns, whether of the whole or of a fractional interest thereof, may make disclaimer of such parts as he shall not claim to hold by virtue of the Patent or assignment thereof, stating in the said disclaimer the extent of his interest in such Patent, and such disclaimer shall be in writing, attested by one witness and recorded in the Office of the said Secretary, and shall be thereafter taken and considered as part of the original specification, to the extent of the interest possessed in the Patent or right secured thereby by the disclaimant or by those claiming by or under him subsequent to the entry thereof: But such disclaimer shall not affect any actions pending at the time of its entry, except so far as may relate to the question of unreasonable neglect or delay in filing the same: and the Patent shall be deemed good and valid for so much of the invention or discovery as shall be truly and *bonâ fide* his own, or not disclaimed, provided it shall be a material and substantial part of the thing patented, and be definitely distinguished from other parts so claimed without right as aforesaid: and such Patentee, his executor, administrator or legal representative and assigns, whether of the whole or a fractional interest therein as aforesaid, shall be entitled to maintain a suit at law or in equity on such Patent for any infringement of so much of the invention or discovery as shall be *bonâ fide* his own, as aforesaid, notwithstanding such disclaimer or larger specification as aforesaid; and in case of judgment on verdict in his favour, he shall not be entitled to recover costs against the Defendant unless he shall have entered as aforesaid in the Office of the Provincial Secretary, the said disclaimer of all that part of the thing patented so claimed without right; Provided also, that no person bringing such suit shall be entitled to the benefits contained in this Section who shall have unreasonably neglected or delayed to enter in the said Office the disclaimer as aforesaid.

of claim too broad.

The disclaimer shall not affect pending actions, &c.

Proviso.

IX. And be it enacted, That whenever any application shall be made to the Governor, or Administrator, as aforesaid, for any addition of a newly discovered Improvement, to be made to an existing Patent, or whenever a Patent shall be returned for correction and re-issue, the specification of claim annexed to every such Patent shall be subject to revision and restriction in the same manner as original applications for Patents, and such Improvement shall not be granted in the one case, nor the re-issue allowed in the other case, until the applicant shall have entered a disclaimer, or altered his specification of claim in accordance with the revision or restriction thereon.

Claims for application for additions to existing patents subject to revision as original applications.

X. And be it enacted, That whenever a Patent shall be returned for correction and re-issue, and the Patentee shall claim several Patents to be issued for distinct and separate parts of the thing patented, the same shall be granted in the same manner as original Patents; Provided always, that no addition of an Improvement shall be made to any Patent heretofore granted, nor any new Patent be issued for an improvement made in any machine, manufacture, or process, to the original Inventor, assignee, or possessor of a Patent therefor, nor any disclaimer be admitted to entry, until a duplicate model and drawing of the thing originally intended, verified as aforesaid, shall have been deposited in the proper Office therefor, nor shall any Patent be granted for an invention, improvement or discovery, the model or drawing of which shall have been lost, until another model and drawing shall in like manner be deposited.

Provision with respect to patents returned for correction.

Proviso: additional and corrected models and drawings to be furnished.

Provision with respect to the application of a patentee for an extension of his patent beyond the term of its limitation.

The application shall be decided upon by a board.

The board may grant an extension for 7 years.

Effect of the extension.

Proviso.

Persons who have purchased, discovered, &c., machines, &c. prior to the application for a Patent by another person claiming to be the inventor, entitled to use such Machines, &c., without liability to Patentee. And the patent not to be invalidated, except in certain cases.

Provision with respect to the granting of Patents, for

XI. And be it enacted, That whenever any Patentee shall desire an extension of his patent beyond the term of its limitation, he may apply therefor in writing, to the Governor or Administrator as aforesaid, setting forth the grounds thereof, and causing the notice of such application to be published three times each in the *Canada Gazette*, and in two other Newspapers published respectively in the English and French languages in that section of the Province in which he shall reside, and also of the time of the said application, that any person may appear and show cause why the extension should not be granted; And the President of the Executive Council for the time being, the Attorney-General for that part of the Province in which the applicant resides, and the Inspector-General for the time being, shall constitute a Board to hear and decide upon the said application and objection thereto, if such there be, who shall sit for that purpose at the time designated in the published notice thereof, at the office of the Registrar of the Province, at the City of Montreal, or where the Seat of the Provincial Government may be, and a true statement on oath by the Patentee shall be then and there submitted to the said Board of the ascertained value of the invention, and of the receipts and expenditure in detail, exhibiting a true and faithful account of the loss or profit in any manner accruing to him from the same. And if upon a hearing of the matter it shall appear to the Board, having due regard to the public interest therein, that the said term should be extended, by reason of the Patentee without fault on his part, having failed to obtain from the use and sale of his invention, a reasonable remuneration for the time, ingenuity and expense bestowed thereon, and the introduction thereof into use, the said Patent shall be renewed and extended by making a certificate thereon by the said Board, of such extension for the term of seven years from and after the expiration of the first term, which certificate, with a certificate of the judgment and opinion of the said Board shall be entered in the said Secretary's Office, and the said Patent shall thereupon have the same effect in law as if it had been originally granted for the term of twenty-one years; And the benefit of such renewal shall extend to Assignees and Grantees of the right to use the thing patented to the extent of their respective interest therein; Provided always, that no extension of a Patent shall be granted after the expiration of the term sought to be extended, nor unless the petition or application therefor shall be presented six calendar months at the least before the expiration of such term.

XII. And be it enacted, That every person, as aforesaid, or Corporation established in this Province, who has or shall have purchased, constructed, invented, or discovered, as aforesaid, any new machine, manufacture, or composition of matter, prior to the application for a Patent therefor, by a person claiming to be the inventor or discoverer thereof, shall be held to possess the right to use and vend to others to be used, the specific machine, manufacture, or composition of matter, so made, purchased, or introduced, without liability therefor to the Patentee or any other person interested in such invention: and no Patent shall be held to be invalid by reason of such purchase, sale or use, prior to the application for such Patent as aforesaid, except on proof of abandonment of such invention to the public, or that such purchase, sale or prior use has been or existed for more than one year prior to such application for a Patent.

XIII. And be it enacted, That any subject inhabitant of this Province as aforesaid, who, by his industry, genius, efforts, and expense, may have invented or produced any new or original design for a manufacture, whether of any metal or mixed metals, or other material or materials, or any new and original design for the printing of woollen, silk, cotton or other fabrics, or any new or original design for a bust, statue, or *bas relief*, or composition

composition in *alto* or *basso relievo*, or any new or original impression or ornament, or to be placed on any article of manufacture, the same being formed in marble or other material, or any new and useful pattern or print or picture to be either worked into or worked on, or printed or painted or cast, or otherwise fixed on any article of manufacture, not known or used by others before his invention or production thereof, and prior to the time of his application for a Patent therefor, and who shall desire to obtain an exclusive property or right therein, to make, use, sell and vend the same or copies of the same to others, to be by them made, used, sold or vended, may make application in writing, by petition to the Governor or Administrator aforesaid therefor, expressing such desire; and the Governor or Administrator aforesaid, on due proceedings had as by the said Acts and this Act provided, may grant a Patent therefor as in the case now of an application for a Patent: Provided that the duration of the said Patent shall be limited to seven years from the grant of the same, and that all the regulations and provisions in the said Acts and in this Act for the obtaining or protection of Patents, shall apply to applications for and to Patents granted under this section.

designs and works of art.

Proviso: No such patent to be granted for more than seven years.

XIV. And be it enacted, That a solemn declaration shall be substituted for the oath required to be taken in the said Act, in matters of Patents, to the effect of the requirements of the said oath, except in suits, actions or proceedings in Courts of Justice in relation to Patents, and that when the applicant is not for the time being residing in the said Province, the said declaration shall be made before any Minister Plenipotentiary, *Chargé d'Affaires*, Consul or Agent, holding commission under the Government of Great Britain, or any Notary Public of the Country in which such applicant may be or happens to be at the time of making the same.

A solemn declaration to be taken in matters of patents instead of an oath.

XV. And be it enacted, That if any person or persons shall write, paint, print, mould, cast, carve, engrave or stamp upon any thing made, used or sold by him, for the sole making or selling of which he hath not or shall not have obtained Letters Patent, the name or any imitation of the name of any Patentee for the sole making or vending of such thing without the consent, in writing, of such Patentee or of his assigns or legal representatives, or if any person upon any such thing not purchased from the Patentee or from his assigns or representatives, or from a vendee, or not having his license or consent in writing, shall write, paint, print, mould, cast, carve, engrave, stamp, or otherwise make or affix the word or words "Patent," "Letters Patent," by the "Queen's Patent," "Patentee," or any word or words of like kind, meaning or import, with the view or intent of imitating or counterfeiting the stamp, mark, or other device of the Patentee, or shall affix the same or any word, stamp or device of like import on any unpatented article, for the purpose of deceiving the public, he shall be deemed to have committed a misdemeanor, and shall be punished by fine, or by imprisonment in the Common Gaol of the District or County in which the offender is brought to trial, or by both fine and imprisonment, at the discretion of the Court trying the same; Provided the fine do not exceed Fifty Pounds currency in amount, and the imprisonment do not exceed Three Months in duration.

Penalty on persons counterfeiting name of Patentee, &c.

Proviso.

XVI. And be it enacted, That from the passing of this Act, all Patentees and Assignees of Patents hereafter to be granted, shall stamp, engrave, or cause to be stamped or engraved on each article vended or offered for sale, the date of the Patent thereof; and any persons patented or assigned neglecting so to do shall be deemed to have committed a misdemeanor, and shall be liable therefor to the same penalties as are provided in the next preceding Section.

Patentees to stamp, &c. the date of patent, on the articles.

Penalty for contravention.

Recital.

Provision with respect to the repeal of Letters Patent under the above mentioned Acts.

XVII. And whereas it is necessary that a similar and convenient remedy should be had for the said Province in general, for the repeal of Letters Patent issued under the authority of the said Acts or of this Act, and fraudulently or surreptitiously obtained, issued improvidently, or upon false suggestion; Be it therefore enacted, That from and after the passing of this Act, it shall and may be lawful for any person desirous to impeach such Letters Patent for any such cause as aforesaid, to obtain an exemplification under the Great Seal of this Province, of such Patent, and of the petition or application of the petitioner therefor or Patentee thereof, or his assigns, executor, administrator or legal representative as aforesaid, and of the drawings and specifications aforesaid, and to have the same filed in the office of the Clerk of the Superior Court, for such section of the said Province, as the case may be, in which such repeal shall be sought, and thereupon the Letters Patent, the petition and application, drawing and specification aforesaid, so exemplified, shall be considered and held by the said Court as remaining of record in the said Court, so that a Writ of *scire facias*, under the Seal of the said Court, may issue grounded upon the said record for the purpose of repealing the same for legal cause as aforesaid, if upon the proceedings which shall be had upon the said Writ of *scire facias*, according to the law and practice of the Court of Queen's Bench in England aforesaid, and under the provisions of the said Acts and of this Act, the said Letters Patent so sought to be repealed, shall be adjudged and declared void; and a Certificate of the said judgment shall, at the request of any person or party, be entered upon the margin, of the enrolment of such Patent, in the Office of the Secretary and Registrar of this Province, whereupon the said Patents shall be considered to be cancelled and made void from the entry thereof; Provided always, that no such *scire facias* shall issue or proceedings thereon be had, unless the same Writ shall issue and be returned into the said Court in a term of the said Court within two years after the grant of the said Letters Patent, or in the Term or Session of the said Court next after the said two years, and not afterwards.

Proviso: *Scire facias* not to issue after a certain time from date of Patent.

Patents to extend throughout Canada.

Proviso: Act not to prevent the importation, &c., of articles invented in the United States, or the British Dominions.

XVIII. And be it enacted, That all Patents hereafter to be granted under the provisions of the said Acts or of this Act, shall extend and be privileged throughout the said Province of Canada; any law or statute in force in either section of the said Province to the contrary notwithstanding. Provided always that nothing herein contained shall extend to inventions or discoveries of any new or useful art, machine, manufacture or composition of matter, or any new and useful improvement on any art, machine, manufacture or composition of matter, or the principle thereof made, discovered or used in the United States of America, or in any part of Her Majesty's Dominions in America, or be construed to prevent the free importation thereof into this Province, for sale by any person or persons or for their use or otherwise from the United States, or Her Majesty's said Dominions.

Inconsistent provisions of above mentioned Acts repealed.

Proviso.

XIX. And be it enacted, That all and every of the provisions in the said recited Acts, inconsistent or at variance with the provisions of this Act, shall be and are hereby repealed; Provided that nothing in this Act contained shall have the effect of reviving or giving effect to any Act or Acts repealed by the said Act first recited of the heretofore Province of Lower-Canada, but the same shall remain and continue repealed; Provided that all actions and proceedings in law or equity sued out in other sections of the Province, prior to this Act coming into force and effect, shall and may be prosecuted to final judgment and execution as if this Act had not been passed, and that all applications or petitions for Patents pending at the time of this Act coming into force and

and effect, shall be proceeded with and acted on in the same manner as if they had been made after this Act shall have come into operation.

XXI. And for the interpretation of this Act—Be it enacted, That the expressions “useful art, machine, manufacture or composition of matter,” shall include any such thing herein referred to whether it be made by hand or by machinery or by both of those means; the expression “Foreign Country” shall include any country not under the British Dominion and subject to the Crown thereof, and the singular number shall include the plural as well as the singular number, and the masculine gender shall include the feminine gender as well as the masculine gender.

Interpretation
of words in
this Act.

C A P. X X V.

An Act to exempt Naval and Military Officers and others on duty in Her Majesty's Service, from the payment of Toll upon any Turnpike Road in this Province.

[30th May, 1849.]

WHEREAS it is expedient to provide that all persons in the Naval or Military Service of Her Majesty, on actual duty, should be exempt from Toll on all Turnpike Roads in this Province, when passing any Turnpike Gate with their horses and carriages: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That all persons in the Naval or Military Service of Her Majesty, on actual duty, travelling on any Road constructed or to be constructed under the authority of an Act passed during the present Session of this present Parliament, intituled, *An Act to authorize the formation of Joint Stock Companies, for the construction of Roads and other Works in Upper-Canada*, or under the authority of any other Act of the Parliament of this Province, in discharge of such duty, with their horses and carriages, and all horses, carts, carriages or wagons in charge of any such persons, conveying any Naval or Military Stores belonging to Her Majesty, in the course of transport from one place to another for Her Majesty's Service, shall pass the Gates set up across all such Roads, free of Toll; any thing in the said Act or any other Act or Law in force in this Province to the contrary notwithstanding.

Preamble.

All Naval or
Military Offi-
cers, &c., on
duty, with their
horses and
wagons, ex-
empt from
Toll on Turn-
pike Roads.

CAP. XXVI.

An Act to provide for the insertion of certain Official and Legal Notices in the *Canada Gazette* only.

[30th May, 1849.]

Preamble.

WHEREAS it would be more for the public convenience, if the Advertisements and Notices hereinafter mentioned were all inserted in the *Canada Gazette*, the circulation whereof is great and co-extensive with the Province, instead of some of them being inserted, as they now are, in the said *Canada Gazette*, and others in the *Quebec Gazette* published by Authority, or in the *Upper-Canada Gazette* published by Authority, the circulation of both of which is limited and local: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after such day as shall be fixed by Proclamation for this Act to come into force, as hereinafter provided, all advertisements, notices or publications which, by any Act or Law in force in this Province or in any part thereof, are required to be inserted by the Provincial Government or any Department thereof, or by any Sheriff or other Officer, or by any Municipal authority, or by any Officer, person or party, whomsoever, in the *Quebec Gazette* by Authority or in the *Upper-Canada Gazette* by Authority, shall not be inserted therein, but shall be inserted in the *Canada Gazette*, and being so inserted shall have the same effect to all intents and purposes whatsoever, as without this Act they would have had if inserted in the *Quebec Gazette* by Authority or in the *Upper-Canada Gazette* by Authority, for both of which the said *Canada Gazette* is hereby substituted, and to which the provisions of such Act or Law as aforesaid shall apply, as if it had been mentioned therein instead of the other Gazettes aforesaid, or either of them: and if upon, or before the said day, any such advertisement, notice or publication shall have been inserted either in the said *Quebec Gazette* by Authority or the said *Upper-Canada Gazette* by Authority, for any period or number of times, and its insertion should be required under such Act or Law as aforesaid for a longer period or a greater number of times, then it shall be inserted in the said *Canada Gazette* for the remaining period or the remaining number of times, so as to make up the period or number of times required by such Act or Law.

After a day to be appointed by proclamation, advertisements required by any Act or Law shall be inserted in the *Canada Gazette* only—

As to advertisements inserted before that day, but requiring to be also inserted after it.

This Act to come into force on a day to be appointed by Proclamation.

II. And be it enacted, That this Act shall come into force upon, from and after such day as shall be appointed for that purpose in and by any Proclamation under the Great Seal that shall or may be issued for that purpose, and not before.

CAP. XXVII.

An Act to repeal certain Acts therein mentioned, and to amend, consolidate, and reduce into one Act, the several Statutory provisions now in force for the regulation of Elections of Members to represent the People of this Province in the Legislative Assembly thereof.

[30th May, 1849.]

WHEREAS it is expedient to amend, consolidate, and reduce into one Act, the several Statutory provisions now in force for the regulation of Elections of Members to represent the People of this Province in the Legislative Assembly thereof: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the several Acts of the Parliaments of the late Provinces of Lower and Upper-Canada and of the Parliament of Canada, hereinafter in this section mentioned, shall be, and the same are hereby repealed, that is to say: the Act of the Parliament of the late Province of Lower-Canada, passed in the fifth year of the reign of His late Majesty, King George the Fourth, chapter thirty-three, and intituled, *An Act to repeal certain Acts therein mentioned, and to consolidate the Laws relating to the Election of Members to serve in the Assembly of this Province, and to the duty of Returning Officers, and for other purposes*,—and the Act of the same Parliament, passed in the Session held in the tenth and eleventh years of the same reign, chapter fifty, and intituled, *An Act to amend a certain Act passed in the fifth year of His Majesty's reign, for the purpose of consolidating the Laws relating to Elections*,—and the Act of the Parliament of the late Province of Upper-Canada, passed in the second Session held in the fourth year of the reign of His said late Majesty, chapter three, and intituled, *An Act to repeal the several Statutes of this Province respecting the Election of Members of the House of Assembly, and the qualification of Voters and Candidates at such Elections, and to reduce the provisions thereof, with some amendments, into one Act, and also to provide against fraud in obtaining qualifications to vote at Elections*,—and the Act of the same Parliament, passed in the Session held in the third year of the reign of His late Majesty King William the Fourth, chapter eleven, and intituled, *An Act to make perpetual an Act passed in the thirty-third year of the reign of His Majesty King George the Third, intituled, 'An Act to provide for the appointment of Returning Officers of the several Counties of this Province,' and to make provisions respecting the duties of Returning Officers, and expenses attending Elections*,—and the Act of the same Parliament, passed in the Session held in the fourth year of the same reign, chapter fourteen, and intituled, *An Act to repeal part of and amend an Act passed in the fourth year of the reign of His late Majesty George the Fourth, intituled, 'An Act to repeal the several Statutes of this Province respecting the Elections of Members of the House of Assembly, and the qualifications of Voters and Candidates at such Elections, and to reduce the provisions thereof, with some amendments, into one Act, and also to provide against fraud in obtaining qualifications to vote at Elections,'*—and the Act of the Parliament of this Province, passed in the Session held in the fourth and fifth years of the reign of Her Majesty, chapter fifty-two, and intituled,

Preamble.

Certain Acts and part of Acts repealed.

Act of L. C. 5 G. 4. c. 33.

Act of L. C. 10 & 11 G. 4. c. 50.

Act of U. C. 4 G. 4. c. 3.

Act of U. C. 3. W. 4. c. 11.

Act of U. C. 4. W. 4. c. 14.

An

Act of Canada,
4 & 5 V. c. 52.

Act of Canada,
6. V. c. 1.

General repeal.

Proviso: re-
pealed Acts
not to revive.

An Act to compel all Candidates at any future Elections for Members of the Legislative Assembly to make and subscribe detailed declarations of the property by them possessed, and under which they qualify,—and the Act of the same Parliament, passed in the Session held in the sixth year of the same reign, chapter one, and intituled, An Act to provide for the freedom of Elections throughout this Province, and for other purposes therein mentioned; and all other Acts, enactments or provisions of law repugnant to or inconsistent with this Act: Provided always, that all Acts, enactments and provisions of law repealed by the Acts hereby repealed, or any of them, shall remain repealed, notwithstanding the repeal of the said last mentioned Acts.

In L. C.
Sheriffs to be
Returning
Officers for
the Cities and
Towns.

If there be
more than one
person in the
Office.

And the Re-
gistrars of
Deeds, for the
Counties.

If there be
more than one
Registrar in a
County.

II. And be it enacted, in and by the present section, which shall have force and effect in Lower-Canada only, That the Sheriffs for the time being for the several Districts of that part of the Province, shall be *ex officio* Returning Officers for the respective Cities or Towns over which their authority as such Sheriffs shall extend; and in case there should be two or more persons appointed to perform the office of Sheriff for any one of the said Districts, then the Writ of Election shall be directed to either of them, and the person to whom the Writ of Election shall have been directed, shall alone act as such Returning Officer; and that the Registrars of deeds and titles, for the time being, for the several Counties in Lower-Canada, shall be *ex officio* Returning Officers for the respective Counties over which their authority as such Registrars shall extend; and in case there should be two or more Registrars in any of the said Counties, according to the several divisions made thereof for registry purposes, then the Writ of Election shall be directed to any one of such Registrars, and the Registrar to whom the Writ of Election shall have been directed shall alone act as such Returning Officer.

In U. C.
High Sheriffs
to be Return-
ing Officers for
their Counties,
Cities and
Towns there-
in, if resident,
and where the
Sheriff is not
Returning
Officer, the
Registrar to be
so.

III. And be it enacted, in and by the present section, which shall have force and effect in Upper-Canada only, That the High Sheriffs for the time being for the several Districts in that part of the Province, shall be *ex officio* Returning Officers for such Counties or Ridings over which their authority as such Sheriffs shall extend, and in which they shall respectively reside, and also for the respective Cities and Towns, sending Members to Parliament within the limits of such Counties or Ridings, and that for the several other Counties for which the Sheriff shall not be *ex officio* Returning Officer as hereinbefore provided, the Registrars of Deeds therein for the time being shall be *ex officio* Returning Officers; Provided always, that the High Sheriff of the Home District, shall also be *ex officio* Returning Officer for the West Riding of the County of York, and that the said Registrar for the time being of the said County of York, shall be *ex officio* Returning Officer for the East Riding and North Riding of the said County.

Writs of Elec-
tion to be ad-
dressed accord-
ingly to the
Sheriffs and
Registrars.

IV. And be it enacted, That whenever a Writ of Election is issued for the election of a Member or Members to serve in the Legislative Assembly of this Province for any of the said Counties, Ridings, Cities or Towns, the same shall be addressed and directed to the said Sheriffs and Registrars respectively, as the case may be, according to the requirements of this Act.

Another Re-
turning Officer
to be appointed
if the Sheriff
or Registrar be
incapacitated.

V. And be it enacted, That in case any of the said Sheriffs and Registrars should be a Member of the Legislative Council of this Province, he shall be, to all intents and purposes, disqualified and incapacitated from acting as Returning Officer; and in that case, as well as in the case of the death of any Sheriff or Registrar, or of his being absent

absent from this Province, or incapacitated by sickness from performing the duties of Returning Officer, then it shall be lawful for the Governor-General of this Province to appoint, as heretofore, any qualified person to be Returning Officer in the place of such Sheriff or Registrar: Provided always, that no person, other than a Sheriff or Registrar as aforesaid, shall be so appointed or act as such Returning Officer for any County, Riding, City or Town in this Province, unless at the time of his appointment, such person be an elector for such County, Riding, City or Town, then duly and legally qualified to vote at the election of a Member or Members for the same, nor unless he shall have continually resided therein during at least twelve months immediately preceding his appointment; and that any person who shall be so appointed and shall act as Returning Officer for any one of the said Counties, Ridings, Cities or Towns, without possessing the qualifications hereinabove required, shall thereby incur a penalty of Fifty pounds, current money of this Province.

Proviso: qualification of any person so appointed.

Penalty for acting without qualification.

VI. And be it enacted, That none of the persons hereinafter designated in this section, shall in any case be appointed or act as such Returning Officer as aforesaid, or as Deputy Returning Officer, or as Election Clerk, or as Poll Clerk, that is to say:

Certain parties excluded from serving as Returning Officers, &c.

First. The Members of the Executive Council.

The parties.

Second. The Members of the said Legislative Council.

Third. The Members of the said Legislative Assembly.

Fourth. Any Minister, Priest, Ecclesiastic, or Teacher, under any form or profession of religious faith or worship.

Fifth. The Judges of the Courts of Superior Civil and Criminal Jurisdiction, as well as the Judges of Circuit Courts and District Courts.

Sixth. All persons who may have served in the Parliament of this Province as Members of the said Legislative Assembly, in the Session next immediately preceding the election in question, or in the then present Session, if the election shall take place during a Session of the said Parliament, and if any one of the persons above mentioned in this section shall be appointed to act and shall act as Returning Officer, or as Deputy Returning Officer, or as Election Clerk, or as Poll Clerk, he shall incur a penalty of Twenty-five Pounds, current money of this Province.

Penalty on parties excluded, acting as Returning Officers.

VII. And be it enacted, That none of the persons hereinafter mentioned in this section, unless they be such Sheriffs or Registrars, or Town Clerks or Assessors shall be obliged to act as such Returning Officer, or Deputy Returning Officer, or as such Election Clerk or Poll Clerk, that is to say:

Certain parties exempted from serving.

First. Physicians and Surgeons.

Second. Millers.

Third. Post-Masters.

Fourth.

Fourth. Persons being sixty years of age, or upwards.

Fifth. Persons who shall have previously served as Returning Officers.

Penalty on parties not exempted, refusing to serve as Returning Officers.

VIII. And be it enacted, That every Sheriff or Registrar, and every other person having the qualifications required by this Act for acting as Returning Officer, who shall refuse to perform the duty of Returning Officer at any such Election as aforesaid, after having received the Writ of Election, shall for such refusal incur a penalty of Fifty Pounds currency of this Province, unless such person, not being a Sheriff or Registrar, and having a right to claim the exemption granted by the next preceding section, shall in fact have claimed such exemption within two days next after the receipt of such Writ of Election.

Duty of the Returning Officer on receiving the Writ of Election.

Proclamation. Its form and contents.

Posting up of Proclamation.

Place of Election.

Hour.

Polling days.

Place of posting up Proclamation in Cities and Towns.

In Counties in U. C.

In Counties in L. C.

How the eight days' notice shall be reckoned.

Penalty for neglect.

IX. And be it enacted, That each Returning Officer shall, on receiving the Writ of Election, forthwith endorse thereon the date of its reception; and within eight days next after the day of such reception, he shall by a Proclamation under his hand, issued in the English language in Upper-Canada and in the English and French languages in Lower-Canada, and in the form A of the Schedule annexed to this Act, fix the place, day and hour, at which he will proceed to hold the Election; and he shall cause such Proclamation to be posted up, in the manner hereinafter prescribed, at least eight days before the day which by such Proclamation he shall have fixed for holding the said Election, which day so fixed shall be called the Nomination Day; and the place to be so fixed by the Returning Officer, shall be in the public place most central and most convenient for the great body of the Electors in the County, Riding, City or Town for which he shall then be acting as such Returning Officer, and the hour to be fixed shall be between eleven o'clock in the forenoon, and two o'clock in the afternoon of the day so by him fixed for opening such Election as aforesaid; and in and by the Proclamation aforesaid, the Returning Officer shall also fix the day on which, in case a Poll be demanded and granted as hereinafter provided, such Poll shall be opened, in conformity to this Act, in each Parish, Township, or union of Townships or Ward, or part of a Parish or Township (as the case may be) for taking and recording the Votes of the Electors according to law; if the Election be for a City or Town, he shall cause the said Proclamation to be posted up, in Upper-Canada, at the City or Town Hall and in some public place in each Ward of such City or Town, and in Lower-Canada at the door of at least one Church or Chapel, or other place of Public Worship, and in some public place in each Ward of such City or Town; and if the Election be for a County or Riding, he shall cause the said Proclamation to be posted up, in Upper-Canada, at the Town Hall where there is one, and in at least one other public place in each Township or union of Townships of such County or Riding in which such Election shall be held, and in Lower-Canada, at the door of at least one Church or Chapel, or other place of Public Worship, where there is one, and in at least one other public place in each Parish, Township or extra-parochial place in such County; and if it shall happen that only part of any Parish, Township or extra-parochial place in Lower-Canada shall be within such County, he shall cause the said Proclamation to be posted up in such part only, in the manner above prescribed; and that neither the day of nomination nor that of the posting of such Proclamation, shall be included within the said eight days; and any Returning Officer who shall refuse or neglect to cause such Proclamation to be posted up as above required, shall, for such neglect or refusal, incur a penalty of Twenty-five pounds currency.

X. And be it enacted, That each Returning Officer shall, before the said day by him fixed for opening the Election, make and subscribe before a Justice of the Peace for the County or District in which he resides, the Oath number One, in the Schedule to this Act annexed; and such Justice of the Peace, shall, under a penalty of Ten pounds currency, in case of refusal, deliver to him, under the hand of such Justice, and in the form B of the said Schedule, a certificate of his having taken the said Oath, which, together with the said certificate, shall be annexed to his Return to the Writ of Election; and any Returning Officer who shall refuse or neglect either to make and subscribe the said Oath, or to annex it with the said certificate to his Return, shall, for such refusal or neglect, incur a penalty of Ten pounds currency.

Returning Officer to take an oath of office.

Justice administering it, to grant a certificate.

Penalty for refusing to take the oath.

XI. And be it enacted, That each Returning Officer shall, before the day of nomination, appoint by a Commission under his hand, in the form C of the said Schedule, a fit and proper person to be his Election Clerk and to assist him in the performance of his duties as Returning Officer; and such Election Clerk shall make and subscribe, either before some Justice of the Peace for the County or District in which he resides, or before the said Returning Officer, the Oath number Two, in the said Schedule; and of his having taken such Oath, there shall be delivered to him by the person before whom he shall have been sworn, and under his hand, a certificate in the form D of the said Schedule; and any person so appointed as Election Clerk who shall refuse to accept the said Office, or who, having accepted it, shall refuse or neglect to take and subscribe the said Oath hereby above required of him, or to perform the duties of Election Clerk, shall for, such refusal or neglect, incur a penalty of Ten pounds currency: Provided always, that it shall be lawful for the said Returning Officer, either before or after the day of nomination, to appoint in the manner above mentioned, another person as his Election Clerk, whensoever the case may require, either by reason of the death, illness, or absence of any Election Clerk previously appointed, or of his refusal or neglect to act, or otherwise; and such new Election Clerk so appointed shall be bound to perform all the duties, and comply with all the obligations of his Office under the same penalty in case of refusal or neglect on his part, as is hereinbefore imposed in like cases; and whenever any Returning Officer shall become unable to perform the duties of his Office, whether by death, illness, absence or otherwise, the Election Clerk so by him appointed as aforesaid, shall have power and is hereby required, under the same penalties in case of refusal or neglect on his part, as are hereinabove imposed in like cases on the Returning Officer, to act as and shall be Returning Officer for the said Election, and shall perform all the duties and obligations of that Office, (which in such case he is hereby authorized and required to do), in like manner as if he had been duly appointed Returning Officer, and without being required to possess any other qualification, or to take any new Oath for that purpose; and in any such case, the Election Clerk shall annex to his Return to the Writ of Election the said certificate of the Oath he shall have taken as Election Clerk, and also the Oath itself.

Returning Officer to appoint an Election Clerk who shall be sworn, &c.

Penalty on persons refusing to perform the duty.

Proviso: Another Election Clerk may be appointed in certain cases.

Duty of Election Clerk in case the Returning Officer shall be unable to perform his duty.

What shall be annexed to the Return in such case.

XII. And be it enacted, That each Returning Officer shall at the time and place by him fixed as aforesaid for opening the Election, proceed to the Hustings (which shall be held in the open air at such place as that all the Electors may have free access thereto) and shall make or cause to be made, in the English and French languages in Lower-Canada, and in the English language in Upper-Canada, in the presence of the Electors there assembled at the Hustings, a Proclamation in the form E of the said Schedule, and shall then and there read, or cause to be read publicly, in the English language

Proceedings of the Returning Officer on the day of Election.

Proclamation; reading of Commission, &c.

language in Upper-Canada, and in the English and French languages in Lower-Canada, the Writ of Election, and his Commission as Returning Officer when he shall have been appointed Returning Officer by Special Commission for such purpose, and shall then require the Electors there present to name the person or persons whom they wish to choose at the said Election to represent them in the said Legislative Assembly in obedience to the said Writ of Election; and if the Candidates or their respective Agents, and the Electors then and there present, upon a show of hands agree in the choice to be so made of the person or persons to represent the said Electors as aforesaid, and if after such show of hands, a Poll be not demanded in the manner hereinafter mentioned, the said Returning Officer shall forthwith close the Election, and shall then and there openly proclaim the person or persons so chosen, to be duly elected a Member or Members to represent in the Legislative Assembly, the County, Riding, City or Town for which such Election shall be had; but if a Poll be demanded (and any Elector present or any Candidate, either in person or by his Agent, shall have a right to demand a Poll) then it shall be the duty of the Returning Officer, and he is hereby required to grant such Poll for taking and recording the Votes of the Electors in the manner prescribed by this Act; and when at any such Election a Poll shall be demanded as aforesaid, if the Returning Officer shall refuse or neglect to grant the same, the Election shall be *ipso facto* null, and such Returning Officer shall, for such refusal or neglect, incur a penalty of Two hundred pounds currency.

If no Poll be demanded.

If a Poll be demanded.

Penalty for not granting a Poll if demanded.

Proceedings when a Poll is demanded.

How and where such Poll shall be had.

In U. C. in Counties.

In Cities and Towns.

In L. C.

Proviso: no Poll to be at a Tavern, and free access to be afforded.

At what Polling place each Elector shall vote. Penalty for voting elsewhere.

In certain wards of Quebec and Montreal, their Polling places to be appointed.

XIII. And be it enacted, That when at any Election as aforesaid, a Poll shall have been demanded and granted in the manner prescribed by this Act, such Poll shall be opened and kept separately in each Parish, Township or union of Townships, or Ward, or part of a Parish or Township (as the case may be) which shall lie within such County, Riding, City or Town, that is to say: in Upper-Canada, in Counties and Ridings, in some building at or near the place where the last Township Meeting was held; and in Cities and Towns, at the most convenient place in each Ward; and in Lower-Canada, at the most public and convenient place for the body of the Electors in such Parish, Township or Ward, or part of a Parish or Township, either in the open air or in some building close to the public highway; provided that such building, whether in Upper or Lower-Canada, be not a Tavern or place of public entertainment, and that there be free access thereto to every Elector: And at such Election the Electors shall vote at the Polling place so opened and kept in the Parish or Township or union of Townships, or Ward, or part of a Parish or Township within the limits whereof the property shall lie, upon which they shall respectively claim the right of voting at such Election, and not at any other Polling place: and if any Elector (except in the case hereinafter mentioned of a Tenant who may have resided in different Wards) shall vote at any other Polling place, he shall thereby incur a penalty of Ten pounds currency.

XIV. Provided always, and be it enacted, That three Polling places shall be appointed by the Returning Officer in each of the following Wards of the City of Montreal, that is to say: the Saint Anne's Ward, the Saint Antoine Ward, the Saint Lawrence Ward, the Saint Louis Ward, the Saint James Ward and the Saint Mary's Ward; and in the Saint Roch's Ward and the Saint John's Ward of the City of Quebec; and three Deputy Returning Officers shall be appointed for each of the said Wards by the Returning Officer for the City in which they respectively lie, and shall have like powers and duties with the other Deputy Returning Officers to be appointed under this Act: and

and the Polling places in each of the said Wards shall be selected by the Returning Officer, in such manner as in his judgment will afford the greatest facility to the Electors residing in different parts of the Ward to give their votes, without going further than is necessary from their respective places of residence; but each Elector entitled to vote in any Ward may vote at any one of the Polling places in such Ward: Provided also, that the said Cities of Quebec and Montreal shall for all the purposes of this Act remain divided into Wards, and such Wards shall remain bounded as they now are by law, notwithstanding any change which may be hereafter made in the division of either of the said Cities into Wards, or in the boundaries of such Wards, for municipal or other purposes, unless by the Act establishing such new division or boundaries, it shall be expressly provided that the same shall be used for the purposes of this Act and of the Election of Members of the Legislative Assembly.

Proviso: wards in the said Cities to remain as at present for election purposes though altered for others.

XV. And be it enacted, in and by the present Section, which shall have force and effect in Lower-Canada only, That for the purpose of voting under the provisions of this Act, the word "Parish" shall be understood wherever it occurs in this Act, to include any tract of land which at the date of the Writ of Election shall be generally reputed to form a Parish, whether such tract have or have not been wholly or in part originally erected into a Parish, either by the Civil authorities or by a Decree of the Ecclesiastical authorities; and when in any County there shall be an extra-parochial place, every Elector qualified to vote at the Election upon property lying within the limits of such extra-parochial place, may vote at that one of the Polling places opened and kept as aforesaid in the said County, which shall appear to him most convenient: and when only part of any Parish or any tract of land reputed to be a Parish within the meaning of this Section, or of any Township, shall lie within the County, no Polling place shall be opened within such part, unless there be therein at least one hundred proprietors of lands or tenements, qualified to vote at such Election; and when any such part shall not be entitled to have a Polling place, or where no Polling place shall be therein opened and kept in conformity to this Act, any Elector qualified to vote at the Election, upon any property lying within such part, may vote at such Election at that one of the Polling places opened and kept in the said County, which shall to him appear most convenient.

Interpretation of the word Parish as regards L. C.

As to extra-parochial places.

When part only of a Parish lies within any County.

XVI. And be it enacted, That when at any such Election for a County, Riding, City or Town, a Poll shall have been demanded and granted in the manner provided by this Act, the Returning Officer, immediately after having granted such Poll, and before adjourning his proceedings, shall publicly proclaim from the hustings the day previously fixed in and by his first proclamation, and the place at which the Poll shall be so opened separately in each Parish, Township or Union of Townships, or Ward, or part of a Parish or Township (as the case may be) for the purpose of then and there taking and recording the votes of the Electors according to law; and the said Returning Officer shall allow at least six days and not more than ten to elapse between the day so by him fixed as aforesaid for opening the Election, and the day by him fixed for opening the Poll, at separate places as aforesaid; and after having so proclaimed from the hustings the day and the places fixed for opening such Poll as aforesaid (which places shall be then by him specially designated and described) the Returning Officer shall adjourn his proceedings in such Election to another certain day, which shall be called the Day of the Closing of the Election, and which shall be one of the ten days next following that which he shall have previously fixed as aforesaid for opening the said Poll, in the manner hereinbefore mentioned.

Day of opening the Poll to be proclaimed from the Hustings.

Delay between Election and Poll.

Adjournment of the Election until after the Poll.

Poll not to be held on Sundays or certain holidays.

Polling days to be the same for each Division of the County, City, &c., and to be two in number, and consecutive unless Sundays or holidays intervene.

Hours of voting.

Deputy Returning Officers to be appointed to hold the Polls.

Their Oath of Office, &c.

Penalty for refusing to perform the duty.

Proviso: in U. C. certain local Officers to be appointed Deputy Returning Officers.

Deputy Returning Officers to appoint Poll Clerks.

Duties of Poll Clerks, Oath of Office, &c.

XVII. And be it enacted, That the day to be so fixed and proclaimed by the Returning Officer for opening the Poll at separate places as aforesaid, shall not be a Sunday, New Year's day, the Epiphany, the Annunciation, Good-Friday, the Ascension, *Corpus Christi*, St. Peter and St. Paul's day, All Saints day, the Conception, or Christmas day; and that such day shall be the same for each Parish, Township or union of Townships, or Ward, or part of a Parish or Township (as the case may be), and the Poll shall be opened and held on that day and the next following day only, so that there be two days polling in each Parish, Township or union of Townships, Ward, or part of a Parish or Township, (as the case may be); and such two days shall be two consecutive days, unless one of such days be a Sunday or one of the holy-days hereinbefore mentioned, in which case such Poll shall be opened and held on the next following day, in such manner always that there may be in each Parish, Township or union of Townships, Ward, or part of a Parish or Township, (as the case may be), two days of polling for taking and recording the votes of the Electors according to law; and during such two days of polling, the voting shall commence at Nine o'clock in the forenoon, and shall finish at Five in the afternoon of each of the said days.

XVIII. And be it enacted, That for the purpose of taking the votes at any such Election as aforesaid, the Returning Officer shall, by a Commission under his hand and in the form F of the said Schedule, appoint a Deputy Returning Officer for each Parish, Township or Union of Townships, or Ward, or part of a Parish or Township, (as the case may be), in which a Polling place is to be opened and kept according to law, three Deputy Returning Officers being appointed for each of certain Wards in the Cities of Montreal and Quebec as hereinbefore provided; and each such Deputy Returning Officer shall, before acting as such, take and subscribe, either before a Justice of the Peace for the County or District in which he resides, or before the Returning Officer, the Oath number Three in the said Schedule, of the taking of which Oath there shall be delivered to him by the Functionary before whom he shall have taken it, a Certificate under the hand of such Functionary in the form G of the said Schedule; and any person so appointed a Deputy Returning Officer who shall refuse to accept the said office, or who after having accepted the same shall refuse or neglect either to take and subscribe the said Oath hereby required of him, or to perform the duties of a Deputy Returning Officer, shall for such neglect or refusal incur a penalty of Twenty-five pounds currency: Provided always, that the Returning Officer for every County or Riding in Upper-Canada shall, and he is hereby required to appoint as such his Deputy for each Township or Union of Townships in which a Polling place is to be opened and kept according to law, the Town Clerk for the time being of such Township or Union of Townships, and in case of the absence, sickness or death of any such Town Clerk, then he shall appoint as such his Deputy, as aforesaid, instead of such Town Clerk, the Assessor or Collector of such Township or Union of Townships; and every Deputy Returning Officer, as well in Upper as in Lower-Canada, shall, by a Commission under his hand, and in the form H of the said Schedule, appoint a Poll Clerk to assist him in taking the Poll according to law; and each Poll Clerk appointed as aforesaid shall, before acting as such, take and subscribe, either before a Justice of the Peace for the County or District in which he resides, or before the Returning Officer, or such Deputy Returning Officer, the Oath number Four, in the said Schedule, of the taking of which Oath there shall be delivered to him, by the Functionary before whom it shall have been taken, a Certificate under his hand, in the form J in the said Schedule; and any person so appointed a Poll Clerk who shall

refuse

refuse to accept the said office, or who, after having accepted the same, shall refuse or neglect either to take and subscribe the Oath hereby required of him, or to perform the duties of a Poll Clerk, shall, for such neglect or refusal incur a penalty of Ten pounds currency; Provided always, that it shall be lawful for the Returning Officer to appoint in the manner above provided, another person to be Deputy Returning Officer, when and so often as the case may require such appointment, either by reason of the death, illness or absence of a Deputy Returning Officer previously appointed, or by reason of his refusal or neglect to act in that capacity, or otherwise; and such new Deputy Returning Officer so appointed shall be bound to perform all the duties and obligations of the said office under the same penalties, in case of refusal or neglect on his part, as are hereinabove imposed in like cases.

Penalty for refusing to perform the duty.

Proviso: Another Deputy Returning Officer may be appointed in certain cases.

His duties, &c.

XIX. And be it enacted, That the Returning Officer shall, by a Warrant under his hand, in the form K of the said Schedule, and addressed to any of the Deputy Returning Officers by him appointed as aforesaid, require each such Deputy Returning Officer to open and hold the Poll according to law, at the time and place by him fixed as hereinbefore provided and set forth in his said Warrant, in the Parish, Township or Union of Townships, or Ward, or part of a Parish or Township (as the case may be), for which such Deputy shall have been so appointed, and to take and record at such Poll, in a Book which such Deputy shall keep or cause to be kept for that purpose, in the form L of the said Schedule, the votes of the Electors voting at the said Poll, and to return to him the said Poll Book signed with his hand and sealed with his seal, on or before the said day fixed by the Returning Officer for closing the Election.

Returning Officer to issue his Warrant for holding the Polls, &c., to each of his Deputies.

Form of Poll Book—return thereof, &c.

XX. And be it enacted, That each Deputy Returning Officer shall, at the Polling place kept by him in conformity to this Act, record or cause to be recorded in such Poll Book as aforesaid, and in the order in which they shall have been given, the votes of the Electors voting at such Polling places, by entering therein the name, surname, legal addition and residence of each Elector so voting, and by shewing by the insertion of the word "Proprietor," or the word "Tenant" in the said Poll Book, whether it be as a proprietor or as a tenant that such Elector claims the right of voting at such Poll; and when any elector shall have taken the oath required of him by this Act, the Deputy Returning Officer shall state in the Poll Book that such oath was taken by the Elector, by entering after the name of such Elector in the column for oaths in the said Poll Book, the word "Sworn" to oath number (as the case may be) and nothing more.

Mode of recording the votes in the Poll Book.

As to Electors sworn.

XXI. And be it enacted, That each Poll Clerk shall, at the Polling place for which he shall have been appointed, aid and assist in the performance of the duties of his office, the Deputy Returning Officer appointed to open and keep the Poll at such place in conformity to this Act, and shall obey the orders of the said Deputy Returning Officer; and in case the Deputy Returning Officer should refuse or neglect to perform the duties of his office, or shall become unable to perform them, either by death, illness, absence or otherwise, and if in any such case no other Deputy Returning Officer duly appointed by the Returning Officer in the place of the former shall appear at the Polling place, then such Poll Clerk is hereby required, (under the same penalties as are hereinbefore imposed in like cases on a Deputy Returning Officer,) to act at such Poll as Deputy Returning Officer, and to perform all the duties and obligations of that office, (which he is hereby in such case authorized and required to do in the same manner as if he had been appointed

Duty of the Poll Clerk.

To perform the duty of Deputy Returning Officer in certain cases.

In such case he may appoint another Poll Clerk.

Deputy Returning Officer may appoint another Poll Clerk in certain cases.

Poll Clerk to take a certain oath before the Poll Book is returned.

And also the Deputy Returning Officer.

When the Poll Book shall be returned, and to whom.

Penalties for non-compliance with this section.

Proceedings on the day appointed for closing the Election. Counting the votes.

Proclamation of the person elected.

Proviso: if

appointed Deputy Returning Officer by the Returning Officer, and without being bound to take any new oath, for that purpose); and whenever any Poll Clerk shall, in the case hereinbefore provided, act as Deputy Returning Officer, he shall have power to appoint by a Commission under his hand in the form H of the said Schedule, another person as Poll Clerk, to aid and assist him as aforesaid in the performance of the duties of his office, and to administer to such person the oath required of a Poll Clerk by this Act; and the Poll Clerk so appointed in conformity with this section shall have the same duties and obligations to perform as if he had been appointed Poll Clerk by the Deputy Returning Officer himself; and also whenever any Poll Clerk appointed under the requirements of this Act shall refuse or neglect to perform his duty as such, or shall become unable to perform it, either by death, illness, absence or other cause, the Deputy Returning Officer whose Poll Clerk he was, may appoint, by a Commission under his hand in the form H of the said Schedule, another person as Clerk at the said Polling place, to aid and assist him as aforesaid in the duties of his office, and may administer to him the oath required of a Poll Clerk by this Act.

XXII. And be it enacted, That every Poll Clerk shall, after the closing of the Poll at which he shall have acted as such, but before the Deputy Returning Officer who shall have kept the same shall have returned the Poll Book to the Returning Officer, as herein required, make and subscribe, either before a Justice of the Peace for the County or District in which he resides, or before the said Deputy Returning Officer, or before the Returning Officer himself, the oath in the form M. of the said Schedule, which oath shall thereafter be annexed to the said Poll Book; and that the Deputy Returning Officer who shall have kept and closed the Poll shall, before returning the Poll Book as aforesaid to the Returning Officer, make and subscribe, either before a Justice of the Peace for the County or District where he resides, or before the said Returning Officer, the oath in the form N. of the said Schedule, which oath shall thereafter be annexed to the said Poll Book; and the Deputy Returning Officer shall then return the Poll Book to the Returning Officer on or before the day fixed in the manner above prescribed for closing the election; and any Deputy Returning Officer or Poll Clerk who shall refuse or neglect to perform any of the obligations or formalities required of him by this section, shall, for each such refusal or neglect, incur the penalty hereinafter mentioned, that is to say: any Deputy Returning Officer a penalty of Fifty pounds currency; and any Poll Clerk a penalty of Twenty pounds currency.

XXIII. And be it enacted, That on the day so fixed as aforesaid by the Returning Officer for closing the Election, the said Returning Officer shall proceed at the appointed hour to the same place at which he shall have opened the Election and granted a Poll as aforesaid; and he shall then and there, in the presence of the Electors assembled, proceed to ascertain the state of the General Poll at the Election, by counting and adding up from each Poll Book the total number of votes taken and recorded at the Election in the whole County, Riding, City or Town, for which the Election shall have been had; and as soon as he shall have so ascertained the total number of votes, he shall then and there openly proclaim, as being duly elected a Member or Members to represent such County, Riding, City or Town in the said Legislative Assembly, the person or persons who shall have a majority of the total number of votes so counted and added up which shall have been taken and recorded according to law in all the Parishes, or Townships or Unions of Townships, or Wards, or parts of Parishes or Townships (as the case may be,) in such County, Riding, City or Town: Provided always,

always, that the Returning Officer shall not in any case proclaim any such person or persons duly elected, unless all the Poll Books shall have been returned to him by all his Deputy Returning Officers.

all the Poll Books have not been returned.

XXIV. And be it enacted, That if on the day fixed by the Returning Officer for closing the election, it should happen that one or more of the Poll Books shall not have been returned by the Deputy Returning Officer or Officers, and it should consequently become impossible for him to ascertain the total number of votes as required by the next preceding section of this Act, then such Returning Officer, instead of proceeding on the said day to examine the Poll Books which shall have been previously returned to him, shall again adjourn the proceedings of the Election to the following day, and so from day to day until all the said Poll Books shall have been returned to him: Provided always, That in proclaiming such adjournment he shall publicly assign the reason thereof, and shall in no case continue the said adjournment to so late a day as to prevent his returning the Writ of Election on the day appointed for that purpose; and provided also, that he shall in no case adjourn such proceedings to a Sunday or to any of the Holy-days hereinbefore mentioned, but if the case shall occur, he shall adjourn the proceedings to the day next after such Sunday or Holy-day.

Proceedings to be adjourned until all the Poll Books shall be returned.

Proviso. reason of adjournment to be proclaimed.

Proviso: Adjournment over any Sunday or Holy-day.

XXV. And be it enacted, That immediately after any Election shall be closed, by the Proclamation to be made by the Returning Officer, in manner aforesaid, of the person or persons duly elected as aforesaid, the Returning Officer shall forthwith execute under his hand and seal, and the hands and seals of at least three Electors, an Indenture of the Election in the form O of the said Schedule; and such Indenture shall be in duplicate or in triplicate, as the case may require, and one copy shall be delivered by the Returning Officer to each person so elected, and the Returning Officer shall transmit one copy thereof to the Clerk of the Crown in Chancery, with the return of the Writ of Election.

Indenture to be executed, and one copy returned with the Writ.

XXVI. And be it enacted, That when any Poll Book of any such Election shall be stolen or taken from its lawful place of deposit for the time being, or shall have been lost or destroyed, or shall have been otherwise placed beyond the reach of the Deputy Returning Officer, to whom the custody of such Poll Book for the time being belonged at any time before he shall have made his return of the same to the Returning Officer, it shall be the duty of such Deputy Returning Officer and he is hereby required to attend personally on the Returning Officer, and report to him the fact of such loss of the said Poll Book, and it shall be also the duty of the Poll Clerk of such Deputy Returning Officer, so soon as he shall have been informed of such loss personally or by letter, either by or from such Deputy Returning Officer, or the Returning Officer himself, or shall have had other good reasons for believing that such loss had occurred, forthwith to attend personally on such Returning Officer, and it shall be the duty of such Returning Officer to examine such Deputy Returning Officer and Poll Clerk upon oath or affirmation as the occasion may require, as to such loss of the said Poll Book and the contents thereof, which examination shall be taken down by him in writing, and subscribed by such Deputy Returning Officer and Poll Clerk, and annexed to the Return in lieu of such Poll Book; and the number of votes that the said Returning Officer shall by this means find to have been recorded in such Poll Book for each Candidate at such Election, shall be included in his summing up of the Votes of such Election, as if the same had been taken from such Poll Book; Provided always, nevertheless, that

Proceedings in case any Poll Book shall be stolen, lost or destroyed.

Examination of Deputy Returning Officer and Poll Clerk, &c.

Proviso: Punishment

that

of Deputy Returning Officer or Poll Clerk refusing to attend or be sworn.

that if either the Deputy Returning Officer or the Poll Clerk shall omit to attend on such Returning Officer as hereby required of them, or shall refuse to be sworn or affirmed by such Returning Officer as aforesaid, they shall be each subject to a Penalty of Fifty Pounds and in the case of such refusal to be sworn or affirmed as aforesaid, shall and may be committed by the said Returning Officer to the common Gaol of the County or District, until thence discharged by an order of the said Legislative Assembly in that behalf.

Returning Officer to have copies of the Poll Books made, and deposit the same.

To be open to the public.
Fee.

Originals to be returned with the Writ of Election.

Their effect as evidence.

XXVII. And be it enacted, That it shall be the duty of each Returning Officer to make or cause to be made exact copies of all the Poll Books which shall have been returned to him by his several Deputies, and within ten days after the closing of the Election, to deposit such copies duly certified by him in the Office of the Registrar of Deeds and Titles for that County, or part of a County within which the place where the nomination of the Candidates at such Election shall have been made, is situate; and the said Registrar shall be bound to allow inspection thereof to any person who may demand the same on payment of a fee of one shilling currency, and to allow such person to take copy of the same at his own expense; and it shall also be the duty of the Returning Officer then to transmit the originals of the said Poll Books with the Writ of Election and his return thereupon, to the Clerk of the Crown in Chancery, within fifteen days after the closing of the Election; and the said original Poll Books, with the affidavits and certificates hereinabove required, shall in all cases be *primâ facie* evidence of the truth of the allegations therein contained.

Returning Officer or Deputy, not to grant any scrutiny.

XXVIII. And be it enacted, That hereafter no Returning Officer or Deputy Returning Officer shall have power to grant, make or enter into any scrutiny of the votes given at any such Election, excepting only such as may be granted and made with reference to each vote before it is recorded in the Poll Book.

Who may act as the Agent of any Candidate.

No paid Agent, Attorney, Counsel, &c. of any Candidate to vote at the Election.

XXIX. And be it enacted, That at any Election as aforesaid, whether at the Hustings on the day of the opening or of the closing of the Election, or at the Polling places opened and kept for such Election in conformity to this Act, in the absence of any person authorized in writing to act as Agent for any absent Candidate, any Elector in the interest of such Candidate, may at any time during the Election, declare himself to be and may act as the Agent of any such Candidate without producing any special authority in writing for that purpose; and that any person who, at any time, either during the Election or before the Election, shall be employed at the said Election or in reference thereto, or for the purpose of forwarding the same, by any Candidate or by any person whomsoever, as Counsel, Agent, Attorney or Clerk, at any Polling place at such Election, or in any other capacity whatever, and who shall have received or expect to receive, either before, during or after the said Election, from any Candidate or from any person whomsoever, for acting in any such capacity as aforesaid, any sum of money, fee, office, place or employment or any promise, pledge or security whatever, for any sum of money, fee, office, place or employment, shall be deemed incompetent to vote at such Election, and his vote, if given, shall be null and void, and such person shall further incur, for having so voted, a penalty of Twenty-five pounds currency.

Penalty for voting.

Qualification of Electors, for Counties or Ridings.

XXX. And be it enacted, That no person shall be entitled to vote at any such Election, for a County or Riding, unless at the time of giving his vote he shall be possessed, for his own use and benefit as proprietor, by virtue of some legal title vesting such

such property in him, either in Fee Simple or in Freehold under the tenure of free and common soccage, or in *fief*, or in *roture*, or in *franc-allevu*, or by virtue of a certificate, derived under the authority of the Governor and Council of the late Province of Quebec, or by virtue of any Act or Acts of the Legislature of either the late Province of Upper or Lower-Canada, or of the Legislature of Canada, of Lands or Tenements lying and being in such County or Riding, and being of the clear yearly value of Forty-four shillings and five pence and one farthing currency, (equal, at the time of the passing of the Act of the Imperial Parliament, passed in the thirty-first year of the Reign of His Majesty King George the Third, commonly called "The Constitutional Act," and intituled, *An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, intituled, 'An Act for making more effectual provision for the Government of the Province of Quebec in North America, and to make further provision for the Government of the said Province,'* to forty shillings sterling,) or upwards over and above all annual rents, whether ground rents (*rentes foncières*) or constituted rents (*rentes constituées*) or any other rents and charges payable out of or in respect of the same, nor unless such person be at the time of giving his vote at such Election, and shall have been in actual and uninterrupted possession of such lands or tenements, or in the receipt of the rents and profits thereof as proprietor as aforesaid, by virtue of and under some such title as aforesaid, for his own use and benefit, during at least six calendar months next before the date of the Writ of Election, unless the same shall have come to him by descent or inheritance, or by devise, marriage or contract of marriage, or unless the Deed of Conveyance or Patent from the Crown under which he claims to hold such Estate in Upper-Canada, shall have been registered three calendar months before the date of such Writ of Election: Provided always, that any Deed or Instrument in writing containing a promise of sale (*promesse de vente*) in favor of any person claiming to vote at any such Election, and being in possession of the property mentioned in such Deed or Instrument in writing, or in favour of any other person or persons through whom he holds, shall, in Lower-Canada, be considered for the purposes of this Act as a legal title vesting such property in the person so claiming to vote; Provided nevertheless, that every such Deed or Instrument, not being a notarial Deed or Instrument, shall have been enregistered at least twelve months before such Election: And provided also, that no person shall be entitled to vote in Upper-Canada at any such Election as aforesaid by virtue of any Conveyance made to his wife after marriage unless such Conveyance shall have been registered for three calendar months as aforesaid, or such person shall have been in possession of the Lands and Tenements mentioned in such Deed for six calendar months next before the date of the Writ of Election.

XXXI. And be it enacted, That no person shall be entitled to vote as proprietor at any such Election, for any City or Town in this Province, unless at the time of giving his vote at such Election he shall be possessed for his own use and benefit as proprietor, by virtue of some legal title vesting such property in him, either in Fee Simple or in Freehold under the tenure of free and common soccage, or in *fief*, or in *roture*, or in *franc-allevu*, or by virtue of a certificate derived under the authority of the Governor and Council of the late Province of Quebec, or by virtue of any Act or Acts of the Legislature of either the late Province of Upper or Lower-Canada, or of the Legislature of Canada, of a lot of ground with a dwelling house thereon, lying and being within the limits of such City or Town or of the liberties thereof, such lot and dwelling house being of the yearly value of five pounds, eleven shillings, one penny and one farthing currency of this Province, (equal, at the time of the passing of the Imperial Act last

Imperial Act
31 Geo. 3, c.
31, cited.

During what
time the quali-
fication must
have been
possessed.

Exception.

Proviso.

Qualification
of Electors in
Cities or
Towns—as
proprietors.

above

During what time the qualification must have been possessed.

Proviso.

Proviso.

Exception.

above cited, to Five Pounds sterling) or upwards, over and above all annual rents, whether ground rents (*rentes foncières*) or constituted rents (*rentes constituées*) or any other rents and charges payable out of or in respect of the same, nor unless such person be at the time of giving his vote at such Election, and shall have been in actual and uninterrupted possession of such lot and dwelling house, or in the receipt of the rents and profits thereof as proprietor as aforesaid by virtue of and under some such title as aforesaid, for his own use and benefit, during at least six calendar months next before the date of the Writ of Election, unless such lot and dwelling house shall have come to him by descent or inheritance, or devise, marriage or contract of marriage, or unless the deed of conveyance or patent from the Crown, under which he claims to hold such estate in Upper-Canada, shall have been registered three calendar months before the date of such Writ of Election; Provided always, that any Deed or Instrument in writing containing a promise of sale (*promesse de vente*) in favour of any person claiming to vote at any such Election, and being in possession of the property mentioned in such Deed or Instrument in writing, or in favour of any other person or persons through whom he holds, shall, in Lower-Canada, be considered for the purposes of this Act as a legal title, vesting such property in the person so claiming to vote; Provided, nevertheless, that every such Deed or Instrument, not being a Notarial Deed or Instrument, shall have been enregistered at least twelve months before such Election; And provided also, that no person shall be entitled to vote in Upper-Canada at any such Election as aforesaid by virtue of any Conveyance made to his wife after marriage, unless such Conveyance shall have been registered for three calendar months as aforesaid, or such person shall have been in possession of the lands and tenements mentioned in such Deed for six calendar months next before the date of the Writ of Election.

Proprietors of dwelling houses not to be disqualified by certain circumstances or agreements respecting the same.

XXXII. Provided always, and it is hereby declared and enacted by the authority aforesaid, That every such person being otherwise duly qualified in that behalf to vote as proprietor as aforesaid, is and shall be entitled to vote at any such Election upon or in respect of any such lot and dwelling house, whether such dwelling house shall have been erected upon the said lot by himself or those under whom he claims, or by any tenant or tenants holding under building or other leases, or by any other person or persons whomsoever, and whether there shall be or shall not be any subsisting covenant, contract or agreement between landlord and tenant, either in such lease or separate from it, for the removal of any such dwelling house from such lot during or at the end of any term of years for which it may be let, or for any allowance in money or otherwise in lieu of such removal.

Qualification of Electors in Cities and Towns—as Tenants.

XXXIII. And be it enacted, That no person shall be entitled to vote as a Tenant at any such Election for any City or Town in this Province, unless at the time of giving his vote at such Election he shall reside as a Tenant within the limits of such City or Town, or of the liberties thereof, nor unless he shall have so resided as a Tenant during the period of twelve calendar months next before the date of the Writ of Election, nor unless he shall, during the same period, as such Tenant, and as a separate Tenant, have occupied and shall occupy at the time he shall give his vote at such Election, by actual residence therein (*en y tenant feu et lieu*) a dwelling house or dwelling houses, or part or parts of a dwelling house or dwelling houses, lying and being within the limits of such City or Town, or of the liberties thereof, nor unless he shall have really and *bona fide* paid one year's rent for such dwelling house or dwelling houses, or part or parts of a dwelling house or dwelling houses, at the rate of eleven pounds, two shillings and two pence

One year's Rent must have been paid.

pence half penny currency, (equal, at the time of the passing of the Imperial Act last above cited, to Ten pounds sterling) or upwards, a year; Provided always, that the year's rent so required to be paid to entitle such tenant to vote at any such Election, shall be the year's rent up to the last yearly, half yearly, quarterly or other day of payment (as the case may be) of such rent, which shall have occurred next before the date of the said Writ of Election; And provided also, that whenever such annual rent shall exceed the said sum of Eleven pounds, two shillings and two pence half penny currency, then, in every such case, payment of Eleven pounds two shillings and two pence half penny currency, shall be deemed and taken to be a payment of rent within the requirements of this section; And provided also, that any person who shall only hold and occupy within the limits of such City or Town or the liberties thereof, a shop, a counting house, office or other place of business, and who shall not live and have his actual residence therein, (*n'y tienda pas feu et lieu*), shall not be entitled to vote at such Election; And provided also, that a change of residence in any such City or Town, or the liberties thereof, shall not in any case deprive any such Tenant of his right to vote at any such Election, provided he be in all other respects qualified to vote thereat; and in case of such change of residence being from one Ward to another, he shall vote only at the Polling place opened and kept in the Ward within the limits whereof he shall reside on the day when he shall vote at such Election.

Proviso: what shall be such year's Rent.

Proviso: Payment of £11 2s 2½d. to be sufficient

Proviso as to occupiers of buildings not being dwelling houses.

Proviso as to change of residence.

XXXIV. Provided always, and it is hereby declared and enacted by the authority aforesaid, That every such person being otherwise duly qualified in that behalf to vote as tenant as aforesaid, is and shall be entitled to vote at any such election upon or in respect of any such dwelling house, whether such dwelling house shall have been erected upon the lot of ground on which the same shall stand, by himself or those under whom he claims, or by any other person or persons whomsoever, and whether there shall or shall not be any subsisting covenant, contract or agreement between landlord and tenant, either in the lease under which he shall hold or separate from it, for the removal of any such dwelling house from such lot during or at the end of any term of years for which the same may be let, or for any allowance in money or otherwise in lieu of such removal.

Tenants not to be disqualified by certain circumstances, or agreements as to their dwelling houses.

XXXV. And be it enacted, That any person who, being in the Civil or Military Service of Her Majesty, or of any Corporation, or Incorporated Society or Company, shall occupy within the limits of such City or Town, or the liberties thereof, any dwelling house or part of a dwelling house, which shall belong to the Crown or to any Department of Her Majesty's Government, or to such Corporation, Society or Company, or which shall have been provided for such person in any manner whatever by the Crown or any Department of Her Majesty's Government, or by such Corporation, Society or Company, whether it be or be not reckoned as part of the Salary, Wages or pay, which such person, by reason of such service, shall be entitled to receive or shall receive from the Crown, or any Department of Her Majesty's Government, or from such Corporation, Society or Company, shall not be entitled, by reason of his occupying any such dwelling house or part of a dwelling house, to vote at such Election, whatever be the amount of the rent or the value of the occupation (*la valeur du loyer*) of such dwelling house or part of a dwelling house so occupied by such person, and whether he do or do not actually live and have his residence therein, (*y tienne ou non feu et lieu*), unless such party shall have contracted to pay, and shall *bonâ fide* have paid one year's rent for such dwelling house as aforesaid.

Occupiers of dwellings provided for them by Her Majesty, Government Departments, Corporations, &c. not to be thereby qualified.

Exception.

XXXVI.

As to lands partly within one county and partly within another.

XXXVI. And be it enacted, That whenever at any such Election for a County or Riding, any person shall claim the right of voting as the proprietor of any lands or tenements which lie partly within such County or Riding and partly within another, the part thereof lying within the County or Riding for which the Election shall be had, shall be held to be lands or tenements within the meaning of the thirtieth section of this Act, and such person may accordingly vote at such Election, provided he be in all other respects duly qualified so to do within the intent of the said thirtieth section; and when any lands or tenements, although wholly within the same County or Riding, shall nevertheless lie partly within the limits of one of the Polling places opened and kept in such County or Riding, and partly within the limits of another of the said Polling places, the person who shall be entitled to vote as the proprietor of such lands or tenements may vote at either of the said Polling places at his discretion.

And as to lands partly within one polling place and partly within another.

As to lands partly within and partly without any City or Town.

XXXVII. And be it enacted, That whenever at any such Election for any City or Town in this Province, any person shall claim the right of voting under the provisions of the thirty-first section of this Act, as the Proprietor of a lot of ground lying partly within and partly without the limits of such City or Town, or the liberties thereof, such person shall not be entitled to vote at such Election upon the said lot of ground, unless the dwelling house erected on such lot shall be wholly upon that part thereof which shall lie within the said limits, nor unless such person be in all other respects duly qualified within the meaning of the said thirty-first section, to vote at such Election.

As to lands, &c., in L. C. of which one person shall have the right of property and another the usufructuary enjoyment.

XXXVIII. And be it enacted, in and by the present section which shall have force and effect in Lower-Canada only, That whenever any person shall have the mere right of property in any lands or tenements in a County, or in any lot of ground having a dwelling house thereon in any City or Town, and some other person shall have the usufructuary enjoyment (*la jouissance et l'usufruit*) of the same for his own use and benefit, the person who shall have the mere right of property therein shall not have the right of voting upon such lands or tenements, or lot of ground, at any such Election; but in such case such usufructuary (*usufruitier*) shall alone be entitled to vote at such Election upon such lands or tenements.

Joint tenants, or tenants in common, may vote.

XXXIX. And be it enacted, That whenever the right of property in any lands or tenements in any County or Riding, or in any lot of ground having a dwelling house thereon in any City or Town, shall be vested undividedly (*par indivis*), whether as joint tenants or tenants in common, in any two or more persons, each of such persons shall have the right of voting at any such election upon his undivided part or share of such property; Provided always, that such part or share be of the yearly value of at least Two pounds four shillings and five pence and one farthing currency, as required by the thirtieth section of this Act, if such lands or tenements be situate in any County or Riding, or of the yearly value of at least Five pounds, eleven shillings and one penny and one farthing currency, as required by the thirty-first section, if such lands or tenements be situate in any of the Cities or Towns aforesaid, over and above all annual rents, whether ground rents (*rentes foncières*), or constituted rents (*rentes constituées*) or any other rents and charges payable out of or in respect of such part or share, and not otherwise; but whenever any such lands or tenements shall be vested in any Incorporated Company or Society, no one of the shareholders or partners in such Company or Society shall in any case be entitled to vote upon such property at any such Election.

Proviso. Each undivided part must be of the proper value.

Shareholders in incorporated companies or societies, excepted.

XL. And be it enacted, That in every case where the vote of any person shall be objected to by any Candidate or his Agent, the Deputy Returning Officer shall enter the objection in his Poll Book by writing or causing to be written after the name of the voter, in the column for objections, the words "objected to" only, mentioning at the same time by which Candidate or Candidates, or on behalf of what Candidate or Candidates the objection shall have been made, by adding after the words "objected to" the name only of such Candidate or Candidates; and whenever any Elector shall be thereunto required by the Deputy Returning Officer, or by any one of the Candidates or his Agent, such Elector shall, before his vote be taken and recorded in the Poll Book, declare the local situation of the lands or tenements on which he claims to vote, and such declaration shall be made verbally by such Elector, by his merely mentioning either the street or streets, public square or squares on or to which such lands or tenements front or are adjacent, or the names of his neighbours so far as they may be known to him, if such lands or tenements be situate in any one of the said Cities or Towns, or by his merely mentioning the street or square, range or concession, in or on which such lands or tenements are situate, or the names of his neighbours so far as they may be known to him, if such property be in any County or Riding; and whenever such Deputy Returning Officer shall be thereunto required by any Candidate or his Agent, and not in any other case, he shall state in his Poll Book the situation of such lands or tenements by merely entering or causing to be entered therein, after the name of the voter in the column of "description," either the name of the street or streets, or of the square or squares, lot, range or concession in which such lands or tenements are situate, or the names of the neighbours thereof in so far as they shall be known to the voter, (as the case may be), the whole according to the declaration of the situation of such lands or tenements as given by the voter.

Votes objected to, how to be distinguished in the Poll Book.

Situation of the property voted upon, may be asked of any voter.

And the answer shall be noted in the Poll Book if required by any Candidate.

XLI. And be it enacted, That whenever any person who shall have or claim to have the right of voting at any Election, shall be thereunto required by one of the Candidates or his Agent, and not otherwise, he shall take before the Deputy Returning Officer at the Polling place at which he shall offer to vote and before his vote shall be taken and recorded in the Poll Book, one of the Oaths or Affirmations respectively marked numbers five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen and nineteen, in the said Schedule, that is to say: if the Election be for a County or Riding, such person shall take, in Lower-Canada, the oath or affirmation number five or six, (as the case may be,) and, in Upper-Canada, the oath or affirmation number ten, eleven, twelve or thirteen, (as the case may be); if the Election be for a City or Town, he shall take, in Lower-Canada, the oath or affirmation number seven or eight, (as the case may be), and, in Upper-Canada, the oath or affirmation number fourteen, fifteen, seventeen or eighteen, (as the case may be,) if he vote as a proprietor, or the oath or affirmation number nine, in Lower-Canada, and number sixteen in Upper-Canada, if he vote as a Tenant; and any such voter either in Upper or Lower-Canada may be required to take the oath number nineteen; which said oaths or affirmations the Deputy Returning Officer is hereby authorized and required to administer, under a penalty, for any refusal or neglect so to do, of Ten pounds currency; and in case any Deputy Returning Officer shall take upon himself to administer to any such voter any of the said oaths or affirmations, without the voter having been required to take the same by one of the Candidates or his Agent as aforesaid, then and in each such case such Deputy Returning Officer shall incur a penalty of Ten pounds currency; and that in case any voter shall vote as aforesaid at any such election without having

Oaths to be taken by the voters, if required.

What oaths may be required of any voter, at a county election, at a city or Town Election in L. C.

In U. C.

in L. C.

in U. C.

Penalty for refusing to administer such oaths.

Or for administering any oaths without being required.

Or for voting

previously

without taking the Oath if required.
 Voter refusing to take the required Oath.
 Penalty for recording such votes.

previously taken such oath or made such affirmation, when he shall have been thereunto required by one of the Candidates or his Agent, such voter shall incur a penalty of Ten pounds currency; and when any such voter shall have been so required by any of the Candidates or his Agent to take such oath or make such affirmation, and shall refuse to take or make the same, his refusal shall be stated by the Deputy Returning Officer in his Poll Book, by entering or causing to be entered after the name of such voter the word "refused," and in every such case the vote shall not be taken or recorded in the said Poll Book; and if any vote be in any such case taken and recorded, it shall be *ipso facto* null and void, and the Deputy Returning Officer shall, for having taken and recorded the same, or for having caused it to be taken and recorded in his said Poll Book, incur a penalty of Ten pounds currency.

None but British subjects of full age to vote.

XLII. And be it enacted, That no person shall be entitled to vote at any such Election, unless at the time of his voting at such Election he shall be a British subject by birth or naturalization, and shall have attained the full age of twenty-one years, and in case any question shall arise when any person shall offer himself to vote at any Polling Place, as to such person being at the time a British subject by birth or naturalization, such person shall be allowed to prove the same by the production of a lawful certificate of his naturalization, or at his option by taking the oath or affirmation number nineteen in the Schedule hereunto annexed which the Deputy Returning Officer shall, if requested, administer to him.

Every Deputy Returning Officer may administer the oath of allegiance to any person who needs only such oath to become a subject by naturalization.

XLIII. And be it enacted, That every Deputy Returning Officer at any Election for a Member or Members to represent the People of this Province in Provincial Parliament shall, during the period that his authority as such Deputy shall continue, be and he is hereby authorized and empowered to administer the oath or affirmation of allegiance to any person or persons who under the authority of any Act or Acts either of the Parliament of this Province or of either of the late Provinces of Lower or Upper-Canada would upon taking such oath or affirmation become entitled to the privileges of British Birth in this Province without further residence therein or other formality than the taking such oath or affirmation; which oath or affirmation so taken before such Deputy Returning Officer shall to all intents and purposes whatsoever have a like effect upon the civil and political rights of the party taking the same as if such oath or affirmation had been administered by any Commissioner or other Public Officer directed by such Acts or any of them.

Penalty on unqualified persons voting.

Proof of qualification to lie on the person voting.

Penalty for voting more than once at the same election.

XLIV. And be it enacted, That any person who shall have wilfully voted at any such Election, without having, at the time of his so voting, all the qualifications required by law for entitling him so to vote at such Election, knowing at the time that he was not so entitled, shall for so doing incur a penalty of Ten pounds currency, and his vote shall moreover be null and void; and in any action or prosecution brought or instituted as hereinafter provided against any such person for the recovery of the said penalty, the burden of the proof of such person having, at the time of his so voting at such Election, all the said qualifications, or for believing so, shall fall upon him and not upon the party bringing or instituting such action or prosecution; and any person who shall vote more than once at the same Election shall for so doing incur a like penalty of Ten pounds currency, and every vote he shall have given subsequently to his first vote shall be null and void.

XLV. And be it enacted, That if any lands or tenements shall be transferred or conveyed to any person, by any title or instrument whatsoever, fraudulently and for the purpose of giving him the qualification requisite to enable him to vote at any Election, and if such person shall vote at such Election upon such lands or tenements, his vote shall be void, and he shall moreover incur a penalty of Twenty-five pounds currency; and nevertheless such transfer or conveyance, notwithstanding any agreement to annul or revoke the same, or to reconvey such lands or tenements, shall be valid, and shall transfer such lands or tenements out of and from the person who shall have so transferred or conveyed the same, and shall vest them in the person to whom they shall have been so transferred or conveyed, to all intents and purposes whatsoever; and every such agreement to annul or revoke any such transfer or conveyance, or to reconvey such lands or tenements, whether such agreement have been made with the person so transferring or conveying, or with the person to whom such lands or tenements are so transferred or conveyed, or with any person or persons acting for them or on their behalf, shall be null and void to all intents and purposes whatsoever.

Penalty for fraudulently conveying lands in order to give a vote.

But the conveyance shall be valid.

Any agreement to the contrary notwithstanding.

XLVI. And be it declared and enacted, That no woman is or shall be entitled to vote at any such Election, whether for any County or Riding, City or Town.

No woman shall vote.

XLVII. And be it enacted, That whenever any Elector shall not understand the English language, or the French language, or shall understand neither of the said languages, it shall be lawful for any Deputy Returning Officer to make use of an Interpreter to translate any Oath or Affirmation which shall be required of such Elector, as well as the questions which shall be put to him and his answers; and such Interpreter shall take before the said Deputy Returning Officer the Oath, or if he be one of the persons permitted by law to affirm in civil cases, the Affirmation following:

Interpreter may be employed and sworn, in certain cases.

“ I swear (or affirm) that I will faithfully translate such oaths, declarations, affirmations, questions and answers as the Deputy Returning Officer shall require me to translate at this Election. So help me God.”

His oath.

XLVIII. And whereas by the twenty-eighth Section of the said Act of the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, it is enacted, “ That every Candidate at such Election, before he shall be capable of being elected, shall, if required by any other Candidate, or by any Elector, or by the Returning Officer, make the following declaration :

Recital.

Union Act cited. Section 25.

“ I, A. B., do declare and testify that I am duly seized at law or in equity, as of freehold, for my own use and benefit, of lands or tenements held in free and common socage, (or duly seized or possessed for my own use and benefit of lands or tenements held in fief, or in roture, as the case may be) in the Province of Canada, of the value of Five hundred pounds of sterling money of Great Britain, over and above all rents, mortgages, charges and incumbrances charged upon or due and payable out of or affecting the same, and that I have not collusively or colourably obtained a title to or become possessed of the said lands and tenements or any part thereof, for the purpose of qualifying or enabling me to be returned a Member of the Legislative Assembly of the Province of Canada :”

Candidate to add to his declaration under the said Section, a description of the property forming his qualification.

Form of such addition.

Wilfully false statement in such description to be a misdemeanor.

Declaration may be voluntarily made before hand.

How construed in such case.

In what cases only a Candidate may be called upon to make same.

When it may be made, if required.

Before whom it may be made, and how attested.

Returning Officer to certify the delivery to him of the declaration under a penalty of £50.

Proviso: what shall be deemed the date of any such declaration: and who

Be it therefore declared and enacted, That every such Candidate, when he shall be personally required as aforesaid to make the said declaration, shall, before he shall be elected as aforesaid, give and insert at the foot of the declaration hereinabove required of him as aforesaid, a correct description of the lands or tenements aforesaid on which he shall claim to be qualified according to law to be so elected, and of their local situation, by adding immediately after the word "Canada," (which is the last word in the said declaration) the following words: "And I further declare that the lands or tenements aforesaid consist of, &c." (*here insert the description above required*); and any person who, in giving the description of such lands or tenements as above required, shall knowingly and wilfully make any false statement relative to the situation, position, extent or bounds of such lands or tenements, shall be deemed guilty of a misdemeanor, and shall, on being duly convicted thereof, incur the same pains and penalties as may by law be inflicted on persons guilty of wilful and corrupt perjury.

XLIX. And be it enacted, That it shall be lawful for any person, with a view to his becoming a Candidate at any such Election, to make, at any time, as well before as after the date of the Writ of Election, voluntarily and without waiting to be required so to do, any such declaration as is mentioned in the next preceding Section; and that any such declaration so made voluntarily as aforesaid, shall to all intents and purposes have the same force and effect as if it had been made after his being thereunto required according to law; but no such declaration, when any Candidate shall be required to make the same by any other Candidate, or by any Elector, or by the Returning Officer, in the manner hereinabove provided, need be so made by such Candidate, unless the same shall have been personally required of him on or before the day of nomination of Candidates at such Election, and before a Poll shall have been granted, and unless he shall not have already made the same voluntarily as he is hereinabove allowed to do, and not in any other case; and when any such declaration shall have been so required according to law, the Candidate called upon to make the same may do so at any time during such Election; Provided always, that it be made before the Proclamation, to be made by the Returning Officer at the closing of the Election, of the person or persons elected at such Election; and when such declaration shall be so made by any Candidate, whether voluntarily or in consequence of his being thereunto so required as aforesaid, it shall be made either before the Returning Officer or before some Justice of the Peace, or the Mayor, or one of the Aldermen of some City or Town in this Province, and such Returning Officer, Justice of the Peace, Mayor or Alderman shall take the same and shall attest it by writing at the foot thereof, the words "taken and acknowledged before me," or other words to the like effect, and by dating and signing such attestation; and any Candidate who shall deliver or cause to be delivered such declaration so made and attested to the Returning Officer at any time before the proclamation made by him at the closing of the Election as above mentioned in this section, shall be deemed to have complied with the law to all intents and purposes as regards such declaration; and any Returning Officer who shall be thereunto so required, shall be bound (under a penalty of Fifty pounds currency, in case of refusal) to give forthwith, after such declaration shall be delivered to him, to the Candidate or other person who shall have delivered the same, an acknowledgment under his hand of the delivery of such declaration; Provided always, that every such declaration shall for all the purposes of such Election, be deemed to have been made on the day on which it shall have been so delivered to the Returning Officer by the Candidate or by any person on his behalf, whatever be the date of its receipt or of its attestation, and the possession of such declaration

declaration shall be *prima facie* evidence of the possessor's having been authorized by the Candidate to deliver it to the Returning Officer.

may deliver it to the Returning Officer.

L. And be it enacted, That from the time when any Returning Officer or Deputy Returning Officer shall have taken and subscribed the Oath of Office as such, until the day next after the final closing of such Election, such Returning Officer or Deputy Returning Officer, respectively, shall be and is hereby declared to be a Conservator of the Peace, and invested, for the maintenance of the Peace, for the arrest, detention or admission to Bail, trial and conviction of any person or persons who shall break the law or trouble the Peace, with the same powers with which Justices of the Peace are invested in this Province; and for the maintenance of the Peace and of good order at such Election, it shall and may be lawful for each such Returning Officer or Deputy Returning Officer, respectively, to require the assistance of all Justices of the Peace, Constables, and other persons present at the election, whether at the Hustings or at any Polling place, to aid him in so doing, and also to swear in so many Special Constables as he shall deem necessary; and it shall be lawful for each such Returning Officer or Deputy Returning Officer, respectively, to arrest or cause to be arrested by verbal order, and to place in the custody of one or more Constables or other persons, for such time as in his discretion he shall deem expedient, any person who shall disturb the peace and good order, or to cause such person to be imprisoned for any such offence under an order signed by him, until any period not later than the final closing of the Election or of the Poll, respectively; which order, whether given verbally or in writing, all persons shall be bound to obey without delay, under a penalty for any refusal or neglect so to do, of Five pounds currency: Provided always, that no such arrest, detention or imprisonment shall in any manner exempt the person so arrested, detained, confined or imprisoned, from any pains or penalty to which he may have become liable by reason of any thing by him done contrary to the true intent and meaning of this Act, or otherwise.

Returning Officer and his Deputies to be conservators of the Peace, during a certain time.

They may require the aid of Justices of the Peace, Constables, &c. and swear in Special Constables.

May arrest disturbers or order them to be arrested, for a certain time.

Such order to be obeyed under a penalty of £5.

Proviso: such detention not to prevent other punishment.

LI. And be it enacted, That on a requisition in writing made by any Candidate or by his Agent, or by any two or more Electors, any Returning Officer or Deputy Returning Officer shall be and is hereby bound to swear in such Special Constables.

Special Constables to be sworn if required by any Candidate, &c.

LII. And be it enacted, That it shall and may be lawful for any Returning Officer or Deputy Returning Officer, during any part of the days whereon any such Election shall be to be begun, holden, or proceeded with, or on which any Poll for such Election shall be to be begun, holden, or proceeded with, to demand and receive from any person whomsoever, any offensive weapon, such as fire-arms, swords, staves, bludgeons, or the like, with which any such person shall be armed, or which any such person shall have in his hands or personal possession; and every such person, who, upon such demand, shall decline or refuse to deliver up to such Returning Officer or Deputy Returning Officer, any such offensive weapon as aforesaid, shall be deemed guilty of a misdemeanor, punishable by fine not exceeding Five pounds, currency, or imprisonment not exceeding three calendar months, or by both, in the discretion of the Court whose duty it shall be to pass the sentence of the law upon such person, upon his conviction.

Returning Officer or his Deputies may demand the surrender of all arms.

Penalty for refusing to surrender the same.

LIII. And be it enacted, That every person who shall be convicted of a battery committed during any part of the days whereon any such Election shall be to be begun, holden,

Certain batteries during election time

to be deemed
"aggravated
assaults."

holden, or proceeded with, or on which any Poll for such Election shall be to be begun, holden, or proceeded with, within the distance of two miles of the place where such Election or such Poll shall be to be begun, holden, or proceeded with, shall be deemed guilty of an aggravated assault, and shall be punished accordingly.

Provisions
against bribery
and corrup-
tion.

LIV. And be it enacted, That it shall not be lawful for any Candidate at any Election, directly or indirectly to employ any means of corruption, by giving any sum of money, office, place, employment, gratuity, reward, or any bond, bill, or note or conveyance of land, or any promise of the same, or to threaten any Elector of losing any office, salary, income, or advantage, either by himself or his authorized Agent for that purpose, with the intent to corrupt or bribe any Elector to vote for such Candidate, or to keep back, any Elector from voting for any other Candidate, nor to open and support, or cause to be opened and supported at his costs and charges, any house of public entertainment for the accommodation of the Electors, and in case any Representative returned to Parliament shall be proved guilty of using any of the above means to procure his Election before the proper Tribunal, his Election, shall thereby be declared void, and he be incapable of being a Candidate, or being elected or returned during that Parliament.

Punishment of
members
against whom
bribery or
corruption
shall be
proved.

Penalty on
parties giving
or receiving
corruptly any
consideration
for voting.

LV. And be it enacted, That any person who shall give, or cause to be given, or loan any sum of money, or give any office, place or employment, gratuity or reward, or any bond, bill or note, or conveyance of land, or other property, or promise of the same to any Elector, in consideration of or for the purpose of corrupting him to give his vote for any Candidate, or to forbear to give his vote to any Candidate, or as a compensation to any elector for his loss of time or expenses in going to or returning from voting, or on any other pretence whatsoever, and any voter who shall accept the same for the aforesaid purpose, shall forfeit and pay a sum not less than Five pounds nor more than Fifty pounds in the discretion of the Court having jurisdiction of the same, with costs of suit, and which may be sued for and recovered by action or plaint in any Court of Record in this Province, having competent jurisdiction.

How recover-
able.

Votes corruptly
given to be
struck off the
Poll Book.

LVI. And be it enacted, That upon it being proved before the proper Tribunal of the Legislative Assembly, at the trial of any contested Election, that any Elector voting at the said Election had been bribed to give his vote, the name of such voter shall be struck from the Poll Book.

Entertainment
not to be fur-
nished to Elec-
tors.

LVII. And be it enacted, That it shall not be lawful for any Candidate for the representation of any County, Riding, City or Town, in this Province, with intent to promote his Election, or for any other person with intent to promote the Election of any such Candidate, either to provide or furnish entertainment at his expense to any Meeting of Electors, assembled for the purpose of promoting such Election, previous to or during the Election at which he shall be a Candidate, or to pay for, procure or engage to pay for any such entertainment; Provided always, that nothing herein contained shall be construed to extend to any entertainment furnished to any such Meeting of Electors, by or at the expense of any person or persons at his, her, or their usual place of residence.

Except at the
residence of
the party fur-
nishing it.

With certain
exceptions, no

LVIII. And be it enacted, That except for the Returning Officer for such Election, or his Deputy for such Parish, Township or union of Townships, or Ward, or the Poll Clerk

Clerk for such Parish, Township or union of Townships, or Ward, or one of the Constables or Special Constables appointed by such Returning Officer or his Deputy, for the orderly conduct of such Election or Poll, and the preservation of the public peace thereat, it shall not be lawful for any person who hath not had a stated residence in such Parish, Township or union of Townships, or Ward, for at least six calendar months next before the day of such Election, to come during any part of the days upon which such Poll shall be to remain open, into such Parish, Township or union of Townships, or Ward, armed with offensive weapons of any kind, as fire-arms, swords, staves, bludgeons, or the like, or for any person whomsoever being in such Parish, Township, union of Townships or Ward, to arm himself during any part of either of such days with any such offensive weapons, and thus armed to approach within the distance of two miles of the place where the Poll for such Parish, Township or union of Townships, or Ward shall be held, unless called upon to do so by lawful authority.

stranger shall come armed into any Parish, &c. while the Poll shall be open therein.

Nor shall any armed person approach within two miles of the Poll.

LIX. And be it enacted, That it shall not be lawful for any Candidate for the representation of any County, Riding, City or Town in this Province, or for any other person, to furnish or supply any ensign, standard, or set of colours, or any other flag, to or for any person or persons whomsoever, with intent that the same should be carried or used in such County, Riding, City or Town, on the day of Election, or within eight days before such day or during the continuance of such Election, by such person or any other, as a party flag, to distinguish the bearer thereof and those who might follow the same, as the supporters of such Candidate, or of the political or other opinions entertained or supposed to be entertained by such Candidate, or for any reason to carry or use any such ensign, standard, set of colours or other flag, as a party flag, within such County, Riding, City or Town, on the day of any such Election, or within eight days before such day, or during the continuance of such Election.

Party Ensigns, Flags, &c., not to be carried during any Election or within eight days before it.

LX. And be it enacted, That it shall not be lawful for any Candidate for the representation of any County, Riding, City, or Town in this Province, or for any other person, to furnish or supply any ribbon, label, or the like favor, to or for any person whomsoever, with intent that the same should be worn or used within such County, Riding, City, or Town, on the day of Election, or within eight days before such day, or during the continuance of such Election, by such person or any other as a party badge to distinguish the wearer, as the supporter of such Candidate, or of the political or other opinions entertained or supposed to be entertained by such Candidate, or for any person to use or wear any ribbon, label, or other favor, as such badge, within such County, Riding, City or Town, on the day of any such Election, or within eight days before such day, or during the continuance of such Election.

Party Badges, &c., not to be used, during a like time.

LXI. And be it enacted, That every person offending against any of the provisions of the next four preceding Sections of this Act, shall be deemed guilty of a misdemeanor, punishable by fine not exceeding Twenty-five pounds, or imprisonment not exceeding six calendar months, or by both, in the discretion of the Court whose duty it shall be to pass the sentence of the law upon such person upon his conviction.

Punishment for contravening the four next preceding sections.

LXII. And be it enacted, That if any person shall steal or unlawfully or maliciously, either by violence or stealth, take from any Deputy Returning Officer or Poll Clerk, or from any other person having the lawful custody thereof, or from its lawful place of deposit for the time being, or shall unlawfully or maliciously destroy, injure or obliterate,

Persons stealing or destroying, &c., the Writ, Return, Indenture, &c., relating to any

OR

Election, to be guilty of felony.

Punishment of such persons.

What need not be stated in the Indictment.

Oaths, &c., under this Act to be administered gratuitously.

How penalties under this Act shall be recoverable.

Payment thereof, how enforced.

What it shall be sufficient to state in the declaration.

And in any indictment under this Act.

Proviso: Limitation of suits under this Act.

Cities and Towns not to form, for election purposes, part of Counties or Ridings in which they lie.

No proprietor shall vote in a County or Riding on pro-

or shall aid, counsel or assist in so stealing, taking, destroying, injuring or obliterating any Writ of Election, or any Return to a Writ of Election, or any Indenture, Poll Book, Certificate or Affidavit, or any other document or paper, made, prepared or drawn out according to, or for the purpose of meeting the requirements of this Act or any of them, every such offender shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the Court, whose duty it shall be to pass the sentence of the law upon such offender, to be imprisoned at hard labour in the Provincial Penitentiary, for any term not exceeding seven years nor less than three years, or to be imprisoned in any other place of confinement for any term not exceeding two years, or to suffer such other punishment by fine or imprisonment, or by both, as the Court shall award; and it shall not in any indictment for any such offence be necessary to allege that the article in respect of which the offence is committed is the property of any person, or that the same is of any value.

LXIII. And be it enacted, That any person before whom it is hereby required that any oath or oaths shall be taken, or any affirmation or affirmations made in the manner herein provided, shall be and he is hereby authorized and required to administer such oath or oaths, affirmation or affirmations gratuitously.

LXIV. And be it enacted, That all penalties hereby imposed shall be recoverable, with full costs of suit, by any person who shall sue for the same by action of debt, bill, plaint or information, in any of Her Majesty's Courts in this Province having competent jurisdiction; and that in default of payment of the amount which the offender shall be condemned to pay, within the period to be fixed by such Court, such offender shall be imprisoned in the Common Gaol of the District until he shall have paid the amount which he shall have been so condemned to pay and the costs; and it shall be sufficient for the plaintiff in any action or suit given by this Act, to state in the declaration that the defendant is indebted unto him in the sum of money thereby demanded, and to allege the particular offence for which the action or suit is brought, and that the defendant had acted contrary to this Act, without mentioning the Writ of Election or the Return thereof; and it shall be sufficient in any indictment or information for any offence committed contrary to this Act, to allege the particular offence charged upon the defendant, and that the defendant is guilty thereof, without mentioning the Writ of Election or the Return thereof, or the authority of the Returning Officer founded upon any such Writ of Election, nor shall it be necessary on the trial of any suit or prosecution under this Act to produce the Writ of Election or the Return thereof or the authority of the Returning Officer founded upon any such Writ of Election, but general evidence of such facts shall be sufficient evidence: Provided always, that every action, suit or information given by this Act, shall be commenced within the space of nine calendar months next after the fact committed, and not afterwards.

LXV. And be it declared and enacted, That from and after the passing of this Act, the several Cities and Towns of this Province, which have the right to elect Members to represent them respectively in the said Legislative Assembly, shall cease to form part, and be deemed, hereafter, not to form part, respectively, of the Counties or Ridings within the limits of which they respectively lie, as regards the election of Members to represent the said Counties or Ridings in the Legislative Assembly; and that no one shall have the right to vote at any such Election for any of the said Counties or Ridings, upon lands or tenements, or lots of ground lying within the limits of any of the said
Cities

Cities or Towns respectively, whether there is erected thereon a dwelling house or not; partly in any City or Town.
any law, custom or usage to the contrary notwithstanding.

LXVI. And be it enacted, That the Fees hereinafter mentioned, and no other, shall be allowed to the several Officers hereinafter mentioned, respectively, for their services and disbursements at any Election, that is to say: Fees for services and disbursements at elections.

TO THE RETURNING OFFICER.

For attendance on the day of opening the Election, two pounds currency. Returning Officer's fees.

For attendance on the day of closing the Election, when polls have been taken, two pounds.

For an Election Clerk, for each of those two days when attendance is required, one pound.

For two Constables, on each of those two days, each *per diem* five shillings.

For each Copy of Proclamation or Notification of Election, which may be required by law to be posted, whether in English and French, or in English only, two shillings and six pence.

For each Commission appointing Deputy Returning Officers and an Election Clerk, two shillings and six pence.

For each Warrant to Deputy Returning Officer to take the Poll, two shillings and six pence.

For each Indenture, five shillings.

For each mile actually and necessarily travelled for attending the place of Election, for posting Proclamations or Notifications, and for transmitting Commissions to Deputies, and Election Clerk, and Poll Books, six pence.

For each Poll Book furnished to Deputies, five shillings.

For each Copy of the same, (and when such Copy is furnished by him to any Elector to be paid for by such Elector), at three pence per folio of a hundred words.

The Returning Officer to be allowed the actual reasonable expenses incurred by him in providing Hustings or places for holding Elections, and such reasonable expenses as may be incurred in transmitting Poll Books and Returns to the Clerk of the Crown in Chancery. Certain disbursements allowed.

TO EACH DEPUTY RETURNING OFFICER.

For each day of holding the Poll, one pound. Deputy Returning Officer's Fees.

For the Commission appointing a Poll Clerk, two shillings and six pence.

For a Poll Clerk, each day, ten shillings.

To the Deputy and Clerk respectively, for each mile actually and necessarily travelled to and from the place of polling for the purpose of taking the oaths required by law, six pence.

For two Constables, each *per diem*, five shillings.

Certain disbursements allowed.

For each mile actually and necessarily travelled for transmitting Poll Books and Returns to the Returning Officer, six pence.

The reasonable and actual expenses incurred in providing Hustings or Polling places to be allowed.

Mileage to Justices of the Peace in certain cases.

When the attendance of any Justice of the Peace is required to administer the oaths to be taken in a *public manner* by the Deputy Returning Officer and Polling Clerks, such Justice of the Peace to be allowed for each mile actually and necessarily travelled by him, in going and returning, to be charged in the account of the Returning Officer, six pence.

How the said allowances shall be paid, and accounted for.

Which said fees, allowances and disbursements shall be paid over to the Returning Officer, by Warrant of the Governor, directed to the Receiver-General, out of the Consolidated Revenue Fund of the Province, and shall be distributed by such Returning Officer to the several Officers and persons entitled to the same under the provisions of this Act, which distribution he shall report to the Governor of the Province through the Provincial Secretary thereof.

To whom copies of this Act shall be sent.

LXVII. And be it enacted, That one copy of this Act with a copious alphabetical Index prefixed for the Returning Officer, and one for each of his Deputies, shall be transmitted with the Writ of Election to each and every Returning Officer throughout Canada.

Recital.

Time of Polling in the Township of Waterloo or of Wilmot, in the County of Waterloo may be extended in certain cases and on certain conditions.

LXVIII. And whereas it is requisite to make a special provision for extending the time for polling under certain circumstances in the County of Waterloo, which it is not considered necessary to extend to other constituencies: Be it therefore enacted, That if at any Election for the said County of Waterloo, a written requisition shall be presented to any Deputy Returning Officer to be appointed under the authority of this Act for either of the Townships of Waterloo or Wilmot, in the said County of Waterloo, at any time before the hour of five o'clock in the afternoon of the second day fixed for taking the Poll, signed by twelve Electors of such Township, resident within the same, setting forth that in their belief, the number of Electors of such Township remaining unpolled within the same is so great that their votes cannot conveniently be recorded without an extension of the time for taking the Poll and requiring him to extend the same accordingly, it shall be the duty of such Deputy Returning Officer, when the hour of five o'clock in the afternoon of the said second day shall arrive, instead of closing the Poll, to adjourn the same to the hour of nine o'clock in the forenoon of the day following, except the same shall be Sunday, Christmas-day or Good-Friday, in which case it shall be his duty to adjourn the same to the hour of nine o'clock in the forenoon of the day following such Sunday or Holy-day, and that he shall keep such adjourned Poll open till the hour of five o'clock in the afternoon of the day to which it shall have been so adjourned: and provided also, and be it enacted, that if at any time before the hour of five o'clock in the afternoon of the day to which such Poll shall have been adjourned as aforesaid, a similar requisition to that aforesaid shall be presented to such Deputy Returning Officer, requiring for the like cause a further extension of the time for taking the Poll, it shall be his duty, when the hour of five o'clock in the afternoon of the said day shall arrive, to adjourn the Poll to the hour of nine o'clock in the forenoon of the day next following, except the same shall be Sunday, or one of the Holy-days

Proviso.

days last aforesaid, in which case it shall be his duty to adjourn the same to the hour of nine o'clock in the forenoon of the day following such Sunday or Holy-day, and that he shall keep such adjourned Poll open till the hour of five o'clock in the afternoon of the said day to which it shall have been so adjourned, and then finally close the same for that Election; and provided also, and be it enacted, that if on either of such two additional Polling days to be held as aforesaid the space of half an hour shall elapse without any person entitled to vote at such Poll tendering his vote thereat, then, at the expiration of such half hour, such Poll shall be finally closed for that Election.

Proviso.

LXIX. And be it enacted, That this Act may be amended or repealed by any Act to be passed in the present Session of the Provincial Parliament.

Act may be amended in this Session.

SCHEDULE.

1.—FORM A

Referred to in the Ninth Section of this Act.

PROCLAMATION OF THE RETURNING OFFICER fixing the time and place for the opening of the Election, and also the day for opening the Poll.

PROCLAMATION.

County, (Riding, City or Town), of _____ to wit :

Public notice is hereby given to the Electors of the County, (Riding, City or Town) of _____ that in obedience to Her Majesty's Writ to me directed, and bearing date the _____ day of the month of _____, I require the presence of the said Electors at _____ in the Parish (or Township, or in the City or Town) of _____ (here, describe the place distinctly, whether the Election be for a County or Riding, or for a City or Town,) on the day of the month of _____ at _____ o'clock in the _____ noon, for the purpose of electing a person (or persons, as the case may be), to represent them in the Legislative Assembly of this Province; and that in case a Poll shall be demanded and allowed in the manner by law prescribed, such Poll will be opened on the day of the month of _____ in the Parish of _____ (or in the Township of _____ or in the Ward, or in the part of the Parish of _____, as the case may be. Here, mention each of the Parishes, Townships, Wards, parts of Parishes or Townships, in which a Polling place is to be opened and kept according to law.) Of all which every person is hereby required to take notice and to govern himself accordingly.

Given under my hand, at _____ this _____ day of the month of _____ in the year _____

(Signature) A. B.
Returning Officer.

2.—OATH No. 1

Referred to in the Tenth Section of this Act.

OATH OF THE RETURNING OFFICER.

I, the undersigned, A. B, Returning Officer for the County (Riding, City or Town), of _____, solemnly swear, (or, if he be one of the persons permitted by law to affirm in civil cases, solemnly affirm) that I am legally qualified according to law to act as Returning Officer for the said County, (Riding, City or Town,) of _____ and that I will act faithfully in that capacity, without partiality, fear, favor, or affection. So help me God.

(Signature)

A. B,
Returning Officer.

3.—FORM B

Referred to in the Tenth Section of this Act.

CERTIFICATE of the Returning Officer having taken the Oath of office.

I, the undersigned, hereby certify that on the _____ day of the month of _____ A. B., the Returning Officer for the County, (Riding, City or Town), of _____, took and subscribed before me the Oath (or affirmation) of office in such case required of a Returning Officer by the Tenth Section of the Act of the Parliament of this Province, intituled, *An Act, &c., (title of this Act.)*

In testimony whereof, I have delivered to him this Certificate.

(Signature)

C. D.
Justice of the Peace.

4.—FORM C

Referred to in the Eleventh Section of this Act.

COMMISSION OF AN ELECTION CLERK.

To E. F. (*set forth his legal addition and residence.*)

Know you, that in my capacity of Returning Officer for the County, (Riding, City or Town), of _____ I have appointed and do hereby appoint you to be my Election Clerk, to act in that capacity according to law at the approaching Election for the said County, (Riding, City or Town) of _____, which Election will be opened by me on the _____ day of the month of _____

Given under my hand, at _____ the month of _____

in the year _____
(Signature)

A. B.
Returning Officer.

5.—OATH No. 2

Referred to in the Eleventh Section of this Act.

OATH OF THE ELECTION CLERK.

I, the undersigned E. F., appointed Election Clerk for the County, (Riding, City or Town), of _____, solemnly swear, (or, if he be one of the persons permitted by law to affirm, solemnly affirm) that I will act faithfully in my said capacity as Election Clerk, and also in that of Returning Officer, if required to act as such, according to law, without partiality, fear, favor, or affection. So help me God.

(Signature)

E. F.
Election Clerk.

6.—FORM D

Referred to in the Eleventh Section of this Act.

CERTIFICATE of the Election Clerk having taken the Oath of office.

I, the undersigned, hereby certify that on the _____ day of the month of _____ E. F., Election Clerk for the County, (Riding, City or Town), of _____ took and subscribed before me the Oath (or affirmation) of office required in such case of an Election Clerk, by the Eleventh Section of the Act of the Parliament of this Province, intituled, *An Act, &c.*, (title of this Act.)

In testimony whereof, I have delivered to him this Certificate under my hand.

(Signature)

C. D.
Justice of the Peace,
or A. B.
Returning Officer.

7.—FORM E

Referred to in the Twelfth Section of this Act.

PROCLAMATION which the Returning Officer is to cause to be read at the Hustings, on the day of the opening of the Election.

OYEZ. OYEZ. OYEZ ;

All persons are commanded and strictly enjoined to keep silence while Her Majesty's Writ for the present Election is publicly read, under the pains and penalties in such case provided.

8.—FORM F

Referred to in the Eighteenth Section of this Act.

COMMISSION OF A DEPUTY RETURNING OFFICER.

To G. H. (*insert his legal addition and residence.*)

Know you, that in my capacity of Returning Officer for the County, (Riding, City or Town) of _____ I have appointed and do hereby appoint you to be Deputy Returning Officer, or one of the Deputy Returning Officers (*as the case may be*) for the Parish of _____ (or, for the Township of _____ or, for the Ward, or for part of the Parish of _____ or, for part of the Township of _____ *as the case may be*) in the said County, (Riding, City or Town), there to take and record the Votes of the Electors according to law, at the Polling place to be by you opened and kept for that purpose.

Given under my hand, at
in the year

this

day of the month of

(Signature)

A. B.
Returning Officer.

9.—OATH No. 3

Referred to in the Eighteenth Section of this Act.

OATH OF DEPUTY RETURNING OFFICER.

I, the undersigned G. H. appointed Deputy Returning Officer, (*or one of the Deputy Returning Officers, as the case may be*), for the Parish of _____ (or for the Township of _____ or for the Ward, or for part of the Parish of _____ or for part of the Township of _____) in the County, (Riding, City or Town) of _____ solemnly swear (*or, being one of the persons permitted by law to affirm in civil cases, solemnly affirm*) that I will act faithfully in my said capacity of Deputy Returning Officer, without partiality, fear, favour, or affection. So help me God.

(Signature)

G. H.
Deputy Returning Officer.

10.—FORM G

Referred to in the Eighteenth Section of this Act.

CERTIFICATE of the Deputy Returning Officer (*or one of the Deputy Returning Officers, as the case may be,*) having taken the oath of office.

I, the undersigned, hereby certify that on the _____ day of the month of _____, G. H. the Deputy Returning Officer for the Parish of _____ (*or for the Township of _____ or for the Ward, or for part of the Parish of _____ or for part of the Township of _____*) in the County (Riding, City or Town) of _____ took and subscribed the oath (*or affirmation*) of Office required in such case of a Deputy Returning Officer, by the Eighteenth Section of the Act of the Parliament of this Province, intituled, *An Act, &c., (title of this Act.)*

In testimony whereof, I have delivered to him this Certificate under my hand.

(Signature)

C. D.

Justice of the Peace.

or A. B.

Returning Officer.

11.—FORM H

Referred to in the Eighteenth and Twenty-first Sections of this Act.

COMMISSION OF A POLL CLERK.

To I. J. (*insert his legal addition and residence.*)

Know you, that in my capacity of Deputy Returning Officer (*or one of the Deputy Returning Officers, as the case may be,*) for the Parish of _____ (*or for the Township of _____ or for the Ward, or for part of the Parish of _____ or for part of the Township of _____*) in the County (Riding, City or Town) of _____ I have appointed and do hereby appoint you to be Poll Clerk, for the said Parish of _____ (*or for the said Township of _____ or for the said Ward, or for the said part of the Parish of _____ or for the said part of the Township of _____*)

Given under my hand, at _____ of the month of _____

this _____ day
in the year _____

(Signature)

G. H.

Deputy Returning Officer.

12.—OATH No. 4

Referred to in the Eighteenth Section of this Act.

OATH OF A POLL CLERK.

I, the undersigned, I. J., appointed Poll Clerk for the Parish of _____
 (or for the Township of _____ or for the _____ Ward,
 or for part of the Parish of _____ or for part of the
 Township of _____) in the County _____
 (Riding, City or Town) of _____ do solemnly swear (or, if he be
 one of the persons permitted by law to affirm in civil cases, do solemnly affirm) that I
 will act faithfully in my capacity of Poll Clerk, and also in that of Deputy Returning
 Officer, if required to act as such, according to law, without partiality, fear, favour, or
 affection. So help me God.

(Signature)

I. J.
 Poll Clerk.

13.—FORM J

Referred to in the Eighteenth Section of this Act.

CERTIFICATE OF THE POLL CLERK having taken the oath.

I, the undersigned, hereby certify that on the _____ day of the m o t
 of _____, I. J., Poll Clerk for the Parish of _____
 (or for the Township of _____ or for the _____ Ward,
 or for part of the Parish of _____ or for part of the Township
 of _____) in the County (Riding, City or Town) of _____
 took and subscribed before me the oath (or affirmation) of office required of a Poll
 Clerk in such cases by the Eighteenth Section of the Act of the Parliament of this
 Province, intituled, *An Act, &c. (title of this Act.)*

In testimony whereof, I have delivered to him this Certificate under my hand.

(Signature)

C. D.
 Justice of the Peace.
 or A. B.
 Returning Officer.
 or G. H.
 Deputy Returning Officer.

14.—FORM K

Referred to in the Nineteenth Section of this Act.

WARRANT OF THE RETURNING OFFICER to each of his Deputies, for opening and holding the Polls.

County (Riding, City or Town) of

To G. H. Deputy Returning Officer (or one of the Deputy Returning Officers, as the case may be,) for the Parish of _____ (or for the Township of _____ or for the _____ Ward, or for part of the Parish of _____ or for part of the Township of _____) in the County (Riding, City or Town) of _____ to wit :

Whereas by Her Majesty's Writ to me directed, and bearing date the _____ day of the month of _____

I am commanded to hold an election of _____ Member (or Members) to represent the County (Riding, City or Town,) of _____ in the Parliament of this Province; and whereas a Poll having been demanded, was granted by me according to law; These are therefore to authorize and require you to open and hold the Poll of such Election for the Parish (or Township or union of Townships, or Ward, or part of the Parish or Township) aforesaid, on the _____ day of the month of _____, at nine o'clock in the forenoon, (*here, describe particularly the place at which the Poll is to be held*), and there to keep the said Poll open during the days and at the hours prescribed by law, and to take and record at the said Polling place, in a Book which you shall keep for that purpose in the manner by law provided, the votes of the Electors voting at the said Polling place, and to return to me the said Poll Book, signed with your hand and sealed with your seal, together with this Warrant, on or before the _____ day of the month of _____

Given under my hand, at _____ this _____ day of the month of _____ in the year _____

(Signature)

A. B.
Returning Officer.

15.—FORM L
 REFERRED TO IN THE NINETEENTH SECTION OF THIS ACT.
 FORM OF A POLL BOOK.

Number of the Voters.	NAMES OF THE VOTERS.	Their legal addition.	Their place of residence.	Proprietors.	Tenants.	Description of Lots and Range or Concession, or otherwise, as the case may be	Objections.	Oaths. No.	Voters refusing to take the Oaths.	Names of Candidates.

16.—FORM M

Referred to in the Twenty-second Section of this Act.

OATH OF THE POLL CLERK after the closing of the Poll.

I, the undersigned, Poll Clerk for the Parish of _____ (or for the Township of _____ or the union of Townships of _____ or for the _____ Ward, or for part of the Parish of _____ or for part of the Township of _____) in the County, (Riding, City or Town) of _____ do solemnly swear (or, if he be one of the persons permitted by law to affirm in civil cases, do solemnly affirm) that the Poll Book kept in _____ and for the said Parish of _____ (or as above, as the case may require) under the direction of G. H., who hath acted as Deputy Returning Officer therein, hath been so kept by me under his direction as aforesaid, correctly, and to the best of my skill and judgment; and that to the best of my knowledge and belief it contains a true and exact record of the votes given at the Polling place in the said Parish of _____ (or as above, as the same may be) as the said votes were taken at the said Poll by the said Deputy Returning Officer.

(Signature)

I. J.
Poll Clerk.

Sworn (or affirmed) and subscribed before me, at _____
of the month of _____ in the year _____

this _____ day

(Signature)

C. D.
Justice of the Peace.
or A. B.
Returning Officer.
or G. H.
Deputy Returning Officer.

17.—FORM N

Referred to in the Twenty-second Section of this Act.

OATH OF THE DEPUTY RETURNING OFFICER after the closing of the Poll.

I, the undersigned, Deputy Returning Officer, (or one of the Deputy Returning Officers, as the case may be) for the Parish of _____ (or for the Township of _____ or for the _____ Ward, or for part of the Parish of _____ or for part of the Township of _____) in the County, (Riding, City or Town) of _____ do solemnly swear (or, if he be one of the persons permitted by law to affirm in civil cases, do solemnly affirm) that to the best of my knowledge and belief the Poll Book kept for the said Parish of _____ (or as aforesaid, as the case may be,) under my direction, hath been so kept correctly, and contains a true and exact record of the votes given at the said _____
said

said Polling place in and for the said Parish of (or as aforesaid,
as the case may be,) as the said votes were taken at the said Polling place.

(Signature)

G. H.,
Deputy Returning Officer.

Sworn (or affirmed) and subscribed before me, at
the _____ day of the month of _____ in the
year _____

(Signature)

C. D.,
Justice of the Peace.
or A. B.,
Returning Officer.

18.—FORM O

Referred to in the Twenty-fifth Section of this Act.

INDENTURE.

This Indenture made this _____ day of _____
in the year of Our Lord, one thousand eight hundred and _____
between A. B., Returning Officer for the County, (Riding, City or Town,) of
_____ in the Province of Canada, of the one part, and C. D., E. F.,
and G. H., Electors of the said County, (Riding, City or Town) of
_____ of the other part, witnesseth, that in obedience to Her (or His) Majesty's Writ, bearing
date the _____ day of the month of _____
last (or instant,) and after the notice and formalities prescribed by law had been given
and observed, they, the said C. D., E. F., G. H., and other Electors of the said County,
(Riding, City or Town) of _____ have chosen D. E., Esquire,
(or D. E. and F. G. Esquires,) to represent the said County, Riding, City or Town) of
_____ in the Legislative Assembly of this Province,
during the next (or present) Parliament; and they, the said Electors, have given and
do hereby give to the said D. E. (and F. G.) ample and sufficient power for them, the
said Electors and the Commons of the said County, (Riding, City or Town) of _____
to do and consent to such matters and things as in
the said Parliament, by the Common Council of the said Province, shall by the favour
of God be ordained.

In testimony whereof, the said parties have to these presents made and executed in
two (or in three) parts, severally set and subscribed their respective names, and affixed
their respective seals on the day and in the year first above mentioned.

(Signature)

A. B., [L. S.]
Returning Officer.

Electors { C. D. [L. S.]
E. F. [L. S.]
G. H. [L. S.]

19.—OATHS

Nos. 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18 and 19, referred to in the Forty-first Section of this Act, and No. 19, also referred to in the Forty-second Section of this Act

LOWER-CANADA.

No. 5.—OATH OF AN ELECTOR voting at the Election for any County in Lower-Canada, upon an Estate to him belonging in virtue of a legal title, other than derived from descent, inheritance, devise, marriage or contract of marriage.

You swear (*or, if he be one of the persons permitted by law to affirm in civil cases, you solemnly affirm*) that you are actually possessed, and that you have been *bonâ fide* possessed, in virtue of a legal title, during the six calendar months immediately preceding the _____ day _____ (*here, mention is to be made of the date of the Writ of Election*), for your own use and benefit, as Proprietor, of the Estate which you have just described as giving you the right to vote at this Election; that the said Estate is of the clear yearly value of forty-four shillings and five pence and one farthing currency, or more, over and above all annual rents and charges payable out of or in respect of the same; that you verily believe you are of the full age of twenty-one years; that you have not already voted at this Election; and that you have not received any thing, nor has there any thing been promised to you, either directly or indirectly, in order to induce you to give your vote at this Election. So help you God.

No 6.—OATH OF AN ELECTOR voting at the Election for any County in Lower-Canada, upon an Estate to him belonging by descent or inheritance, devise, marriage or contract of marriage.

You swear (*or, if he be one of the persons permitted by law to affirm in civil cases, you solemnly affirm*) that you are actually *bonâ fide* possessed, for your own use and benefit, as proprietor, by descent or inheritance, (*or by devise, marriage, or contract of marriage, as the case may be*) of the estate which you have just described as giving you the right to vote at this Election; that the said estate is of the clear yearly value of forty-four shillings and five pence and one farthing currency, or more, over and above all annual rents and charges payable out of or in respect of the same; that you verily believe you are of the full age of twenty-one years; that you have not already voted at this Election; and that you have not received any thing, nor has there any thing been promised to you, either directly or indirectly, in order to induce you to give your vote at this Election. So help you God.

No. 7.—OATH OF AN ELECTOR voting *as Proprietor* at the Election for any City or Town, in Lower-Canada, upon an Estate to him belonging in virtue of a legal title, other than derived from descent, inheritance, devise, marriage or contract of marriage.

You swear (*or, if he be one of the persons permitted by law to affirm in civil cases, you solemnly affirm*) that you are actually possessed, and that you have been *bonâ fide* possessed, in virtue of a legal title, during the six calendar months immediately preceding the _____ day of _____ (*here, mention is to be made of the date of the Writ of Election*), for your own use and benefit, as Proprietor, of the Estate which you have just described, with a dwelling house thereupon, as giving you the right to vote at this Election; that the said Estate is of the clear yearly value of five pounds, eleven shillings and one penny farthing currency, or more, over and above all annual rents and charges payable out of or in respect of the same; that you verily believe you are of the full age of twenty-one years; that you have not already voted at this Election; and that you have not received any thing, nor has there any thing been promised to you either directly or indirectly, in order to induce you to give your vote at this Election. So help you God.

No. 8.—OATH OF AN ELECTOR voting *as Proprietor* at the Election for any City or Town, in Lower-Canada, upon an Estate to him belonging by descent or inheritance, devise, marriage or contract of marriage.

You swear (*or, if he be one of the persons permitted by law to affirm in civil cases, you solemnly affirm*) that you are actually *bonâ fide* possessed, for your own use and benefit, as Proprietor, by descent or inheritance, (*or by devise, marriage or contract of marriage, as the case may be*) of the Estate which you have just described, with a dwelling house thereupon, as giving you the right to vote at this Election; that the said Estate is of the clear yearly value of Five pounds, eleven shillings and one penny farthing currency, or more, over and above all annual rents and charges payable out of or in respect of the same; that you verily believe you are of the full age of twenty-one years; that you have not already voted at this election; and that you have not received any thing, nor has there any thing been promised to you, either directly or indirectly, in order to induce you to give your vote at this Election. So help you God.

No. 9.—OATH OF AN ELECTOR voting *as a Tenant* at the Election for any City or Town in Lower-Canada.

You swear (*or, if he be one of the persons permitted by law to affirm in civil cases, you solemnly affirm*) that you actually reside and have so resided as a Tenant within the limits of the City, (*or Town, as the case may be*) of _____ or the liberties thereof, during the period of twelve calendar months next before the _____ day of _____ (*here, mention is to be made of the date of the Writ of Election*) at the rate of Eleven Pounds, Two Shillings and two pence, half penny currency, of rent, a year, or upwards; that you have, as such Tenant, really and *bonâ fide* paid Eleven pounds, two shillings, and two pence half penny currency of such rent for _____

for the year ending at the last yearly (*or* half yearly, quarterly, *or* other day of payment, as the case may be) day of payment of such rent, which occurred next before the said day of (*date of the said Writ*); that you verily believe you are of the full age of twenty-one years; that you have not already voted at this Election; and that you have not received any thing, nor has any thing been promised to you, either directly or indirectly, in order to induce you to give your vote at this Election. So help you God.

UPPER-CANADA.

No. 10.—OATH OF AN ELECTOR voting at the Election, for a County or Riding, in Upper-Canada, upon an Estate derived by conveyance.

You swear (*or, if he be one of the persons permitted by law to affirm in civil cases, you solemnly affirm*) that the Estate which you have just described as giving you the right to vote at this Election, is a Freehold, which you hold by Deed of conveyance, which Deed has been executed for upwards of six calendar months, and that you have been in the actual possession of such Estate, or in the receipt of the rents and profits thereof, under and by virtue of such conveyance for upwards of six calendar months, immediately preceding the day of (*here, mention is to be made of the date of the Writ of Election*); that the said Estate is of the clear yearly value of Forty-four shillings and five pence and one farthing, currency, or more, over and above all annual rents and charges, payable out of or in respect of the same; that you verily believe you are of the full age of twenty-one years; that you have not already voted at this Election; and that you have not received any thing, nor has there any thing been promised to you, either directly or indirectly, in order to induce you to give your vote at this Election. So help you God.

No. 11.—OATH OF AN ELECTOR voting at the Election for the County or Riding in Upper-Canada, upon an Estate held under Patent from the Crown.

You swear (*or, if he be one of the persons permitted by law to affirm in civil cases, you solemnly affirm*) that the Estate which you have just described as giving you the right to vote at this Election is a Freehold which you hold by grant from the Crown, and that the Patent therefor has been registered during three calendar months preceding the day of (*here, mention is to be made of the date of the Writ of Election*); that the said Estate is of the clear yearly value of Forty-four shillings and five pence and one farthing currency, or more, over and above all annual rents and charges payable out of or in respect of the same; that you verily believe you are of the full age of twenty-one years; that you have not already voted at this Election, and that you have not received any thing, nor has there any thing been promised to you, either directly or indirectly, in order to induce you to give your vote at this Election. So help you God.

No.

No. 12.—OATH OF AN ELECTOR voting at the Election for a County or Riding in Upper-Canada, upon an Estate derived by conveyance.

You swear (*or, if he be one of the persons permitted by law to affirm in civil cases, you solemnly affirm*) that the Estate which you have just described as giving you the right to vote at this Election is a Freehold which you hold by Deed of Conveyance; and that such conveyance has been registered during three calendar months preceding the day of *(here, mention is to be made of the date of the Writ of Election)*; that the said Estate is of the clear yearly value of Forty-four shillings and five pence and one farthing currency, or more, over and above all annual rents and charges payable out of or in respect of the same; that you verily believe you are of the full age of twenty-one years; that you have not already voted at this Election; and that you have not received any thing, nor has there any thing been promised to you, either directly or indirectly, in order to induce you to give your vote at this Election. So help you God.

No. 13.—OATH OF AN ELECTOR voting at the Election for a County or Riding in Upper-Canada, upon an Estate derived by inheritance, devise or marriage.

You swear (*or, if he be one of the persons permitted by law to affirm in civil cases, you solemnly affirm*) that you are actually possessed to your own use and benefit of the Estate which you have just described as giving you the right to vote at this Election, which is a Freehold Estate, and which you hold by inheritance (*or by descent or marriage, as the case may be*); and that the same is of the clear yearly value of Forty-four shilling and five pence and one farthing currency, or more, over and above all annual rents and charges payable out of or in respect of the same; that you verily believe you are of the full age of twenty-one years; that you have not already voted at this Election; and that you have not received any thing, nor has there any thing been promised to you, either directly or indirectly, in order to induce you to give your vote at this Election. So help you God.

No. 14.—OATH OF AN ELECTOR voting as a Freeholder in any City or Town in Upper-Canada, upon an Estate derived by Conveyance.

You swear (*or, if he be one of the persons permitted by law to affirm in civil cases, you solemnly affirm*) that the Estate which you have just described as giving you the right to vote at this Election, is a freehold upon which a dwelling house is erected, and which you hold by Deed of Conveyance, which Deed has been executed for upwards of six calendar months, and that you have been in the actual possession of such Estate, or in the receipt of the rents and profits thereof, under and by virtue of such Conveyance for upwards of six calendar months, immediately preceding the day of *(here, mention is to be made of the date of the Writ of Election)*; that the said Estate is of the clear yearly value of Five pounds eleven shillings and one penny farthing, currency, or more, over and above all annual rents and charges payable out of or in respect of the same; that you verily believe you are of the full age of twenty-one years;

years; that you have not already voted at this Election; and that you have not received any thing, nor has there any thing been promised to you, either directly or indirectly, in order to induce you to give your vote at this Election. So help you God.

No. 15.—OATH OF AN ELECTOR voting as a Freeholder in any City or Town in Upper-Canada upon an Estate derived by inheritance, devise or marriage.

You swear (*or, if he be one of the persons permitted by law to affirm in civil cases, you solemnly affirm*) that you are actually possessed to your own use and benefit of the Estate which you have just described as giving you the right to vote at this Election, which is a Freehold Estate upon which a dwelling house is erected, and which you hold by inheritance (*or by descent or marriage, as the case may be*); and that the same is of the clear yearly value of Five pounds, eleven shillings and one penny farthing currency, or more, over and above all annual rents and charges payable out of or in respect of the same; that you verily believe you are of the full age of twenty-one years; that you have not already voted at this Election and that you have not received any thing, nor has there any thing been promised to you, either directly or indirectly in order to induce you to give your vote at this Election. So help you God.

No. 16.—OATH OF AN ELECTOR voting as a Tenant at the Election for any City or Town in Upper-Canada.

You swear (*or, if he be one of the persons permitted by law to affirm in civil cases, you solemnly affirm*) that you actually reside and have so resided as a Tenant within the limits of the City (*or Town, as the case may be,*) of or the liberties thereof during the period of twelve calendar months, next before the day of (*here, mention is to be made of the date of the Writ of Election*) at the rate of Eleven pounds, two shillings and two pence half penny currency, of rent, a year, or upwards; that you have as such Tenant really and *bonâ fide* paid Eleven pounds, two shillings and two pence half penny currency, of such rent, for the year ending at the last yearly (*or half yearly, quarterly or other day of payment, as the case may be*) day of payment of such rent, which occurred next before the said day of (*date of the said Writ*); that you verily believe you are of the full age of twenty-one years; that you have not already voted at this Election; and that you have not received any thing, nor has there any thing been promised to you, either directly or indirectly in order to induce you to give your vote at this Election. So help you God.

No. 17.—OATH OF AN ELECTOR voting at the Election for a City or Town in Upper-Canada, upon an Estate derived by Conveyance.

You swear (*or, if he be one of the persons permitted by law to affirm in civil cases, you solemnly affirm*) that the Estate which you have just described as giving you the right to vote at this Election, is a Freehold upon which a dwelling house is erected, which

which you hold by Deed of Conveyance; and that such Conveyance has been registered during three calendar months preceding the day of *(here, mention is to be made of the date of the Writ of Election)*; that the said Estate is of the clear yearly value of Five pounds, eleven shillings and one penny farthing, currency, or more, over and above all annual rents and charges payable out of or in respect of the same; that you verily believe you are of the full age of twenty-one years; that you have not already voted at this election; and that you have not received any thing, nor has there any thing been promised to you, either directly or indirectly in order to induce you to give your vote at this Election. So help you God.

No. 18.—OATH OF AN ELECTOR voting at the Election for a City or Town in Upper-Canada, upon an Estate held under Patent from the Crown.

You swear *(or, if he be one of the persons permitted by law to affirm in civil cases, you solemnly affirm)* that the Estate which you have just described as giving you the right to vote at this Election, is a Freehold on which a dwelling house is erected which you hold by grant from the Crown, and that the Patent therefor has been registered during three Calendar months preceding the day of *(here, mention is to be made of the date of the Writ of Election)*; that the said Estate is of the clear yearly value of Five pounds, Eleven shillings and one penny farthing currency, or more, over and above all annual rents and charges payable out of or in respect of the same; that you verily believe you are of the full age of Twenty-one years; that you have not already voted at this Election, and that you have not received any thing, nor has there any thing been promised to you either directly or indirectly in order to induce you to give your vote at this Election. So help you God.

No. 19.—OATH OF AN ELECTOR voting at any Election for a County, Town or Riding either in Upper or Lower-Canada, that he is a British Subject by birth or naturalization.

You swear *(or, if he be one of the persons permitted by law to affirm in civil cases, you solemnly affirm)* that you are a British Subject by birth or by naturalization, according to Law, to the best of your knowledge and belief. So help you God.

C A P. XXVIII.

An Act to make certain General Provisions with regard to the Services which the Government may require of Rail-road Companies, whose Acts of Incorporation make them subject to such general provisions.

[30th May, 1849.]

Preamble.

WHEREAS in divers Acts authorizing the construction of Rail-roads in this Province, a provision has been inserted, that such Rail-roads should be subject to the provisions of any general Act relating to Rail-roads which might be passed by the Provincial Parliament, and it is expedient to make certain general provisions with regard to such Rail-roads: Be it therefore enacted by the Queen's Most Excellent Majesty,

Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*; and it is hereby enacted by the authority of the same, That for and notwithstanding any thing in any Act authorizing the construction of any Rail-road or Rail-way in this Province, or in any Act amending any such Act, each and every Company incorporated for the purpose of constructing any Rail-road or Rail-way, and in whose Act of Incorporation, or in any Act amending the same, a provision to the effect of that mentioned in the preamble to this Act is inserted, shall at all times, when thereunto required by Her Majesty's Deputy Post-Master General, the Commander of the Forces, or any person having the Command or Superintendence of any Police Force, and with the whole resources of the Company if necessary, carry Her Majesty's Mail, Her Majesty's Naval or Military Forces or Militia, and all Artillery, Ammunition or other Stores for their use, and all Policemen, Constables, and others travelling on Her Majesty's Service, on their Rail-road or Rail-way; and shall, on being thereunto required as aforesaid, place any Electric Telegraph erected by them or belonging to them at the disposal of Her Majesty's Government, or of any such Officer as aforesaid; and all such services shall be performed on such terms and conditions, and under such regulations as the Company and the Deputy Post-Master General, the Commander of the Forces, or the person in Command of any Police Force, respectively shall agree upon, or if they cannot agree, then upon such terms and conditions and under such regulations as the Governor, or person Administering the Government, shall in Council make; and so much of any such Act as aforesaid as provides that such Company shall not, in performing any of the services aforesaid, be required to start any Train or Steamboat at any other time than their ordinary time of starting the same, shall be and is hereby repealed.

II. And be it enacted, That for and notwithstanding any thing to the contrary in the Act incorporating any such Company as aforesaid, or in any Act amending such Act, no By-law of such Company, by which any Tolls shall be imposed or altered, or by which any party other than the Members, Servants and Officers of the Company are intended to be bound, shall have any force or effect until the same shall have been approved and sanctioned by the Governor in Council.

C A P . X X I X .

An Act to provide for affording the Guarantee of the Province to the Bonds of Rail-way Companies on certain conditions, and for rendering assistance in the construction in the Halifax and Quebec Rail-way.

[30th May, 1849.]

WHEREAS at the present day, the means of rapid and easy communication by Rail-way, between the chief centres of population and trade in any country and the more remote parts thereof, are become not merely advantageous, but essential to its advancement and prosperity; And whereas experience has shown, that whatever be the case in long settled, populous and wealthy countries, in those which are new and thinly

Every Rail-way Company in whose Act of Incorporation there is a provision inserted that the Rail-way shall be subject to any general law, shall be bound on being thereunto required to render certain services to the government in the conveyance of the Troops, Mails, Police forces, &c.

As to Electric Telegraphs belonging to such Company.

Conditions of such services how regulated.

Certain inconsistent provisions in such Acts repealed.

By-laws of such Company imposing Tolls, or affecting others than members, not to be valid until sanctioned by the Governor in Council.

Preamble

Guarantee of the Province may be granted to loans raised by Rail-way Companies on certain conditions.

First hypothec and privilege in favor of the Province.

Rail-way Companies receiving such guarantee to render half yearly accounts, to the Inspector-General, attested on oath.

Sinking Fund monies how to be invested.

thinly peopled and in which capital is scarce, the assistance of Government is necessary and may be safely afforded to the construction of lines of Rail-way of considerable extent ; and that such assistance is best given by extending to Companies engaged in constructing Rail-ways of a certain length, under Charter from, and consequently with the approval of the Legislature, the benefit of the guarantee of the Government, under proper conditions and restrictions, for loans raised by such Companies to enable them to complete their work : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada* ; and it is hereby enacted by the authority of the same, That it shall be lawful for the Governor in Council, on behalf of this Province, to guarantee the interest on loans to be raised by any Company chartered by the Legislature of this Province for the construction of a Line of Rail-way not less than seventy-five miles in extent, within this Province, on condition,—That the rate of interest guaranteed shall not exceed six per cent. per annum,—that the sum on which interest shall be so guaranteed shall not be greater than that expended by the Company before the guarantee is given, and shall be sufficient to complete their road in a fitting manner, and to the satisfaction of the Commissioners of Public Works, provided always, that no such guarantee be given to any Company until one-half of the entire line of Road shall have been completed,—that the payment of the interest guaranteed by the Province shall be the first charge upon the Tolls and profits of the Company, and that no dividend shall be declared so long as any part of the said interest remains unpaid,—that so long as any part of the principal on which interest is guaranteed by the Province remains unpaid, no dividend shall be paid to the Stockholders, until a sum equal to three per cent. on the amount so remaining unpaid, shall have been set aside from the surplus profits of such Rail-road, and paid over to the Receiver-General under the provisions hereinafter contained as a Sinking Fund for the redemption of the debt on which interest is guaranteed as aforesaid,—and that the Province shall have the first hypothec, mortgage and lien upon the Road, Tolls and Property of the Company for any sum paid or guaranteed by the Province, excepting always, the hypothec, mortgage or lien of holders of bonds or other securities on which interest is guaranteed by the Province, for the interest so guaranteed and the principal on which it shall accrue.

II. And be it enacted, That each Rail-way Company, deriving any aid or advantage under this Act, shall make up and render to the Inspector-General of Public Accounts of this Province, each half year, a true account in writing of the affairs of such Company, in such form and with such particulars as the said Inspector-General shall from time to time require, which said Accounts shall be signed by the President and the Directors of the said Company, or a quorum of that body, and shall be sworn to by the parties signing the same before one of the Judges of the Superior Courts of common law jurisdiction in Upper-Canada, or one of the Judges of the Court of Superior Civil Jurisdiction in Lower-Canada, and the said Company or the proper officer thereof shall, within ten days after the rendering of such account, pay over such amount as may be payable under the provisions of this Act to the Receiver-General of this Province.

III. And be it enacted, That the sum or sums of money hereinbefore provided to be taken from the surplus profits of any Rail-road as a Sinking Fund, shall be invested by the

the Inspector-General of this Province in such securities of this Province as may be approved by the Governor in Council ; Provided always, that it shall be lawful for the Directors of any such Company to make such By-laws as may be requisite to prevent the provision of this Act in respect of such Sinking Fund from bearing unequally upon any class of Stockholders.

Proviso.

IV. And be it enacted, That, provided the conditions mentioned in the foregoing Section be observed, it is expedient that such guarantee be afforded under such further terms and conditions as may be deemed necessary by the Governor in Council and agreed to by the Company applying for such guarantee, it being clearly understood, that no enactments which the Legislature may thereafter make, to ensure the observance of such terms and conditions, or to give effect to the privileged claim and lien of the Province upon the Road, Tolls and Property of the Company, or to secure the Province from loss by such guarantee, shall be deemed an infringement of the rights of the Company.

Further conditions may be agreed upon by the Governor in Council and the Company.

V. And whereas the proposed Rail-way between Halifax and Quebec will be a great national work, linking together the several portions of the British Empire on the continent of North America, and facilitating the adoption of an extensive, wholesome and effective system of Emigration and Colonisation, and it is right that Canada should render such assistance as her means will admit of towards the accomplishment of a work so important and promising results so beneficial ; Be it therefore enacted, That if Her Majesty's Government shall undertake the construction of the said Rail-way, either directly or through the instrumentality of a private Company, it shall be lawful for the Governor in Council, on behalf of this Province, to undertake to pay yearly, in proportion as the work advances, a sum not exceeding twenty thousand pounds sterling towards making good the deficiency (if any) in the income from the Rail-way, to meet the interest of the sum expended upon it, and to place at the disposal of the Imperial Government all the ungranted lands within the Province lying on the line of the Rail-way, to the extent of ten miles on each side thereof, and to undertake to obtain, pay for and place at the disposal of the Imperial Government, all the land required within the Province for the line of the Rail-way, and for proper Stations and Termini.

Recital.

Aid to the Quebec and Halifax Rail-way.

VI. And be it enacted, That any lands to be taken under the provisions of the next preceding Section, for the purposes therein mentioned, shall be deemed to be lands required for Public Provincial Works, and may be taken by the Commissioners of Public Works under the provisions of the Act passed in the ninth year of Her Majesty's Reign, and intituled, *An Act to amend the Law constituting the Board of Works*, and of any Act amending the same.

Under what provisions lands may be taken, for the Quebec and Halifax Rail-way.

9 V. c. 37.

VII. And be it enacted, That any monies which shall be payable on behalf of the Province under any of the provisions of this Act, may be paid out of any unappropriated monies forming part of the Consolidated Revenue Fund ; and that all monies due by any Company as having been paid for them under any guarantee given under this Act, shall be deemed monies due by such Company to Her Majesty, payable according to the provisions of this Act, and the conditions agreed upon by the Governor in Council and such Company.

As to monies advanced under this Act.

CAP. XXX.

An Act for the Sale and better Management of Timber upon the Public Lands.

[30th May, 1849.]

Preamble.

WHEREAS it is deemed expedient and proper to provide by Law as well for the Sale of the Timber growing on the Public Lands of the Province, as for the protection of the said Timber against the frequent and extensive depredations committed upon it in various parts of the Province: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall and may be lawful for the Commissioner of Crown Lands, or any officer or agent under him duly authorized to that effect, to grant licenses to cut Timber on the ungranted Lands of the Province, at such rates, and subject to such conditions, regulations and restrictions as may from time to time be established by the Governor of the Province by and with the advice of the Executive Council, and of which due notice shall be given in the *Canada Gazette*: Provided always, that no license shall be so granted for a longer period than twelve months from the date thereof; And provided further, that in consequence of any incorrectness of survey or other error, or cause whatsoever, a license shall be found to cover grounds already included in a license of a prior date, the license last granted shall become null and void in so far as it may interfere with the one previously issued, and the holder or proprietor of the license so rendered null and void shall have no claim whatsoever upon the Government for indemnity or compensation by reason of such cancellation.

Commissioner of Crown Lands may grant licenses to cut Timber on Public Lands.

Proviso.

Proviso as to interfering licenses.

Form of license and its legal effect.

II. And be it enacted, That the licenses so granted shall describe as accurately as circumstances will permit, the ground or grounds upon which the Timber shall be cut, and shall be held to confer for the time being on the nominee, the right to take and keep possession of the premises described to the exclusion of all other parties, subject to such regulations and restrictions as may be established; and such licenses shall have the effect of vesting in the holders or possessors thereof all rights of property whatsoever in all such trees, timber and lumber as shall or may be cut upon or within the limits of any such license during the term thereof, whether such trees, timber and lumber shall have been cut by or under the authority of the holder or proprietor of such license, or by any other person, with or without his consent, and such licenses shall be deemed sufficient authority to entitle the holders or proprietors thereof to seize or cause to be seized, by way of revendication, *saisie revendication*, or otherwise, such trees, timber or lumber where the same shall be found in Canada in the possession of any unauthorized person, and shall also be deemed sufficient authority, to institute any action or suit at law or equity against any wrongful possessor or trespassers, as well as to prosecute all trespassers and other offenders to punishment, and to sue for and recover damages if any shall have been sustained; and all proceedings pending at the expiration of any such license shall or may be continued and carried to final termination in the same manner as if the said license had not expired.

Proceedings pending when the license expires.

III.

III. And be it enacted, That all persons obtaining licenses shall, at the expiration of the said licenses, make to the officer or agent granting the same, or to the Commissioner of Crown Lands, a return of the number and kinds of trees cut, and of the quantity and description of saw logs, or of the number and description of sticks of square timber he has manufactured and carried away under such license; which statement shall be sworn to by the proprietor of the license, or his agent or by his foreman or principal man, before one of the Justices of the Peace, who are hereby authorized to administer all oaths required by this Act; and persons refusing or neglecting to furnish such statement, or evading or attempting to evade any regulation hereafter to be established by Order in Council, shall be held to have cut without authority, and the timber made shall be dealt with accordingly.

Return to be made by persons obtaining licenses.

To be attested on oath, &c.

IV. And be it enacted, That all timber cut under licenses granted shall be held liable for the payment of the dues established thereon, so long as and wheresoever the said timber or any part of it may be found within the limits of the Province, whether in the original logs or manufactured into deals, boards or other stuff, and it shall be lawful for all officers or agents entrusted with the collection of such dues to follow all such timber and to seize and detain the same wherever it may be found until the dues are paid or satisfactorily secured.

Timber liable to payment of dues may be followed until they are paid.

V. And be it enacted, That bonds or promissory notes which may be taken for the amount of dues either before or after the cutting of the timber, as collateral security or to facilitate collection, shall not in any way affect or invalidate the lien of the Crown on any part of the said timber, but the lien shall subsist in full force until the dues are actually discharged.

The giving of bonds or notes, not to affect the lien on the Timber.

VI. And be it enacted, That if any timber so seized and detained for non-payment of dues shall remain more than twelve months in the custody of the agent or person appointed to guard the same, without the dues and expenses being paid, then it shall be lawful for the Commissioner of Crown Lands, with the previous and special sanction of the Governor in Council to that effect, to order a sale of the said timber to be made after sufficient notice, and the balance of the proceeds of such sales, after retaining the amount of dues and costs incurred, shall be handed over to the owner or claimant of such timber.

Sale of Timber seized for non-payment of dues.

VII. And be it enacted, That each and every person who without competent authority shall cut, or who may employ or induce any other person or persons to cut, or who shall assist in cutting any timber of any kind whatsoever on any of the Crown, Clergy, School or other Public Lands of the Province, or who shall remove or carry away or employ or induce or assist any other person or persons to remove or carry away any Merchantable timber of any kind so cut from any of the Public Lands aforesaid, shall not acquire any right to the timber so cut, or claim to any remuneration for cutting, preparing the same for market, or conveying the same to or towards market, but he shall in addition to the loss of his labour and disbursements, forfeit a sum of fifteen shillings for each and every tree, rafting stuff excepted, which he shall be proved to have cut or caused to be cut or carried away, which shall be recoverable with costs, at the suit, and in the name of the Commissioner of Crown Lands or resident agent, in any Court having jurisdiction in civil matters to the amount of the penalty; and that in all cases under this Act, it shall be incumbent on the party charged to prove license

Penalty on persons cutting timber without license, &c.

Party accused must prove

or

the granting of license.

Proviso: timber must have been removed.

or authority to cut, and the averment of the party seizing or prosecuting, that he is duly employed under the authority of this Act, shall be deemed sufficient proof thereof; unless the Defendant shall prove to the contrary; Provided always, that the penalty of fifteen shillings per tree shall only be recoverable when the timber or saw logs made, have been removed out of the reach of the Officers of the Crown Lands Department, or it shall otherwise be found impossible to seize the same.

Timber alleged to be unlawfully cut may be seized on a sufficient affidavit, &c.

VIII. And be it enacted, That whenever satisfactory information, supported by the affidavit of one or more persons, made before a Justice of the Peace or before any other competent party, shall be received by the Commissioner of Crown Lands or any other officer or agent of the Crown Lands Department, that any timber or quantity of timber has been cut without authority on Crown, Clergy, School or other Public Lands, and describing where the said timber may be found, it shall and may be lawful for the said Commissioner, officer or agent, or any one of them to seize or cause to be seized, in Her Majesty's name, the timber so reported to be cut without authority, wherever it may be found within the limits of this Province, and to secure and place the same under proper custody, until such time as a decision can be had in the matter from competent authority: Provided always, that where the timber so reported to have been cut without authority on the Public Lands aforesaid without license, has been made up with other timber into a crib, dram or raft, or in any other manner has been so mixed up at the mills or elsewhere, as to render it impossible or very difficult to distinguish the timber so cut on the lands aforesaid without license, from other timber with which it may be mixed up, the whole of the said timber shall be held as having been cut without authority on Public Lands, and be liable to seizure and forfeiture accordingly until satisfactorily separated by the holder.

Proviso as to Timber so cut and mixed up with other timber.

Seizing officer may command assistance. Violent resistance to be felony.

IX. And be it enacted, That it shall and may be lawful for any such officer in the discharge of his duty to call in such lawful aid and assistance in the name of the Queen as may be necessary for securing and protecting the timber so seized: and if any person or persons whatsoever shall under any pretence either by actual assault, force or violence, or by threat of such assault, force or violence, in any way resist, oppose, molest or obstruct any officer or person acting in his aid or assistance, in the discharge of his or their duty under the authority of this Act, such person or persons being convicted thereof, shall be adjudged guilty of felony and shall be punishable accordingly.

Carrying away timber under seizure to be deemed a stealing thereof.

Burden of proof that dues have been paid, on whom to lie.

X. And be it enacted, That if any person or persons whatsoever, whether pretending to be the owner or not, shall either secretly or openly, and whether with or without force or violence take or carry away, or cause to be taken and carried away, any timber which shall have been seized and detained as subject to forfeiture under this Act, before the same shall have been declared by competent authority to have been seized without due cause, or without permission of the officer or person having seized the same, or of some competent authority, such person or persons shall be deemed to have stolen such timber being the property of Her Majesty, and to be guilty of felony and liable to punishment accordingly; And that whenever any timber shall be seized for non-payment of duties or for any other cause of forfeiture, or any prosecution shall be brought for any penalty or forfeiture under this Act, and any question shall arise whether the dues have been paid on such timber, or whether the said timber has been cut on other than any of the public lands aforesaid, the burden of proving payment, or on what land the said timber has been cut, shall lie on the owner or claimant of such timber, and not on the officer who shall seize and stop the same or the party bringing such prosecution.

XI. And be it enacted, That all timber seized under this Act, shall be deemed and taken to be condemned, unless the person from whom it was seized or the owner thereof shall within one calendar month from the day of the seizure, give notice to the seizing officer or nearest officer or agent of the Crown Lands Office, that they claim or intend to claim the same; failing such notice, the officer or agent seizing or causing to be seized, shall report the circumstances to the Commissioner of Crown Lands, who shall or may order the sale of the said timber by the said officer or agent, after a notice on the spot, of at least thirty days; Provided always, that it shall and may be lawful for any Judge having competent jurisdiction, whenever he may deem it proper to try and determine such seizures and to order the delivery thereof to the alleged owner on receiving security by bond with two good and sufficient sureties to be first approved by the said agent, to pay double value in case of condemnation, which bond shall be taken to Her Majesty's use in the name of the Commissioner of Crown Lands, and shall be delivered up to and kept by such Commissioner, and in case such seized timber shall be condemned, the value thereof shall be forthwith paid to the Commissioner of Crown Lands, or agent, and the bond cancelled; otherwise the penalty of such bond shall be enforced and recovered.

Timber seized to be condemned if not claimed within a certain time, &c.

Proviso: judge may order timber to be delivered on security being given.

XII. And be it enacted, That if any wilful false oath be made in any case where by this Act an oath is required or authorized, the party wilfully making the same, shall be guilty of wilful and corrupt perjury, and be liable to the punishment provided for that offence; and any persons availing themselves of any false statement or oath to evade the payment of duties, shall forfeit the timber on which duty is attempted to be evaded.

Wilfully false oath to be perjury.

Forfeiture of the Timber in any case of fraud.

XIII. And be it enacted, That parties maliciously cutting or loosening Booms, or breaking up or cutting loose, Rafts or Cribs, shall be guilty of a misdemeanor, punishable with fine and imprisonment of not less than six months.

Maliciously cutting booms, &c., to be a misdemeanor.

XIV. Provided always, and be it enacted, That nothing in this Act contained shall be construed as in any way invalidating or affecting licenses already granted or any obligation contracted for payment of dues under such licenses, or to invalidate or affect the lien of the Crown on any timber cut upon Public Lands now within the limits of the Province, and upon which the dues heretofore exacted have not been paid, notwithstanding any bond or promissory note which have been taken for the amount of such dues.

Existing licenses or liens saved.

C A P . X X X I .

An Act to amend an Act therein mentioned, and to make other provisions for the management and disposal of the Public Lands, and to limit the period for making Free Grants.

[30th May, 1849.]

WHEREAS it is deemed expedient and necessary to amend and otherwise extend the provisions of the Act of the Legislature of this Province, passed in the session held in the fourth and fifth years of Her Majesty's Reign, intituled, *An Act for the disposal of Public Lands*, as well as to remove certain doubts which have arisen

Preamble.

4 and 5 Vict. c. 100.

arisen as to the intent and meaning of some of the provisions of the said Act; And whereas by the second section of the said Act, it is enacted that, with certain exceptions hereinafter provided, no free grants of Public Land shall be made to any person or persons whatsoever; and whereas doubts have been entertained whether the same does not preclude Her Majesty from the exercise of Her Royal Grace, in the relinquishment of Her rights to Escheats and Forfeitures in favour of those near of kin, or otherwise connected with the parties last seized thereof, and it is expedient to remove all such doubts: Be it therefore declared and enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby declared and enacted by the authority of the same, That the second section of the said Act, extends and shall be deemed to have at all times extended to such lands only as no Patent Deed had ever issued for, and not to such as having been once granted by Letters Patent, had subsequently become vested in Her Majesty, either by act of the party or by operation of Law.

To what lands only Sect. 2 of the said Act, shall extend.

Recital.

II. And whereas by the eighteenth section of the said Act, it is amongst other things enacted, That the receipt to be given to the purchaser of any land from the Crown, shall bear date on the day on which it is actually signed, and shall authorize the purchaser to take immediate possession of the lot so sold, and maintain suits in law or equity, against any wrongful possessor or trespasser on such land, as fully and effectually as if the Patent Deed had issued on the day of the date of such receipt; And whereas great inconvenience has arisen from its having been held that such provision does not extend to receipts on sales of the lands commonly known as Clergy Reserves, and it is expedient to extend the operation thereof, generally to all sales by or on the part of the Crown: Be it therefore declared and enacted, That the said eighteenth section of the said Act extends and shall be deemed to have at all times extended to sales of Clergy Reserves, Crown Reserves, School Lands, and generally to sales of all lands of what nature, kind or description soever, of which the legal estate is or shall be in the Crown, and the sale thereof is or shall be made by any Department of the Government or any officer thereof, for and on behalf of Her Majesty, Her Heirs or Successors, whether such land be held by Her Majesty for the public uses of the Province, or in the nature of a trust for some charitable or other public purpose, and whether such receipts be for partial payments or in full payment of the land.

Section 18 of the said Act extended to sales of all lands of which the legal estate is in the Crown and which are sold by any Department of the Government.

Location Tickets to confer certain legal rights on the nominees.

Proviso.

III. And be it enacted, That Location Tickets or Licenses of Occupation for Crown or other Public Lands, given by the Commissioner of Crown Lands, or by any authorized Agent of the Department of Crown Lands, shall also bear date on the day on which they are actually signed, and shall in like manner authorize the nominees thereof to take immediate possession of the lot or lots therein described, and as long as the said Location Ticket or License of Occupation be not revoked by an Order in Council, to maintain suits in law or equity against any wrongful possessor or trespasser on such land, as fully and effectually as if the Patent Deed had issued on the day of the date of such Location Ticket or License of Occupation. Provided always, that the production of such Location Tickets or Licenses of Occupation shall be *prima facie* evidence of their genuineness for the purposes of maintaining such suits as aforesaid.

IV.

IV. And be it enacted, That all claims to scrip or land, whether of minors or others, and whether founded upon Orders in Council or other regulations shall be established to the satisfaction of the Governor in Council, within one year after the passing of this Act, or in default thereof they shall be for ever forfeited: Provided always, that it shall be lawful for the Governor of this Province, by and with the advice of His Executive Council, to receive and satisfy the claims of such person or persons who being entitled to lands were prevented from receiving scrip for the same by reason of such claims not having been presented to the Government prior to the first day of January, one thousand eight hundred and forty-three, if such applications be made within nine months after the passing of this Act. Provided also, that the lands purchased from the Indians, and known as the "Huron Tract," shall not hereafter be granted to claimants nor sold for scrip, but that the same shall be withheld from sale, until the provisions of the Act passed during the present session appropriating one million of acres of land to Common School purposes, shall have been complied with so far as relates to the setting apart of the said million of acres.

Claims to land or scrip on orders in Council, to be established within one year.

Proviso: Governor in Council may receive certain claims.

Proviso: Huron Tract not to be sold for a certain time.

V. And be it enacted, That all lands upon the grant of which fees were payable, and which fees are now due, or upon which settlement duties remain to be performed or the performance of such settlement duties to be proved, shall be forfeited at the end of two years from the passing of this Act, unless such fees shall be duly paid, and such settlement duties duly performed, and the performance thereof proved to the satisfaction of the Governor in Council within the said period: Provided always, that nothing in this Act contained shall be held to apply to free grants of fifty acres, made upon the lines of public roads, as provided by the twenty-sixth section of the Act hereby amended.

Forfeiture of lands on which monies remain unpaid or settlement duties unperformed.

Proviso as to free grants on certain Roads.

VI. And be it enacted, That it shall and may be lawful for the Governor to appoint one or more Agent or Agents for the sale of Public Lands in each Municipal District or County, or for such locality or localities as may be deemed advisable, or to appoint an Agent to act for one or more Municipal Districts, Counties or localities, and from time to time to revoke any or all of such appointment or appointments, and to make and alter such further regulations as may be deemed expedient and proper for the guidance and direction of the Agents so appointed or to be appointed under the authority of this Act, or of the Act hereby amended, and to make such alterations in the Crown Lands Department as may be deemed necessary and expedient for the better and more efficient management thereof.

More than one agent may be appointed for one locality or more than one locality assigned to one Agent.

Other alterations may be made in the C. L. Department.

VII. And be it enacted, That whenever a Patent shall have been erroneously issued in consequence of any clerical error, incorrect return of an Agent, or wrong description of the land thereby granted or intended to be granted, it shall and may be lawful for the Governor in Council, upon the Report of the Commissioner of Crown Lands thereon (there being no adverse claim), to direct the defective Patent to be cancelled, and a correct one to be issued in its stead, which said corrected Patent shall relate back to the date of the one so cancelled, and be construed to have the same legal effect as it would have had, had it borne the same date as such cancelled patent.

Patents may in certain cases of error be cancelled by the Governor in Council and others issued.

VIII. And be it enacted, That the duties imposed upon Her Majesty's Commissioner of Crown Lands by the thirtieth section of the Act hereby amended, for the registration of assignments of located claims, shall be held to extend to the registration of assignments of

Certain provisions of Sect. 30, extended to assignments

before or after the said Act, &c.

Proviso: assignments must be unconditional.

Proviso as to receiving affidavits.

of claims located subsequently as well as previously to the passing of the said Act; and that all assignments of such locations in Lower-Canada executed before Notaries, or before one Notary and two witnesses, shall be deemed sufficient, and shall be registered accordingly; Provided always, that all assignments contemplated by this or the amended Act shall be unconditional; Provided also, that all Commissioners for taking affidavits in the Queen's Bench shall have the same power and authority for administering oaths in matters relating to the Crown, Clergy, and School Lands, as are now exercised by Justices of the Peace.

Commissioner of C. L. to cause lists of lands in arrear to be advertised, and the lands to be sold after a certain time.

IX. And be it enacted, That it shall be the duty of the Commissioners of Crown Lands, as soon after the passing of this Act as circumstances will permit or render expedient, to cause to be prepared, lists of any of the Public Lands under his management already sold or leased or which may hereafter be sold or leased, and upon which arrears of one or more instalments or of one or more years' rent have already or may hereafter accrue, and to direct sales to be made thereof on any specific day to be named, after a notice of not less than thirty days, and one publication at least in the *Canada Gazette*, and a local or District newspaper, published in the County or District in which such Lands shall be situated, and when no newspaper shall be published in such County or District, then such publication shall be made in a newspaper in the District or County next adjoining.

Such lists to be previously submitted to the Governor in Council, who shall fix prices, &c.

X. And be it enacted, That it shall be the duty of the said Commissioner before publishing any such list to submit the same for the consideration and approval of the Governor in Council, who shall establish the price and conditions upon which the said Lands shall be offered; and lots which shall not meet with purchasers at the upset price on the first day of sale, shall thereafter become disposible by the local Agent in the same manner as other advertised Lands, subject to such modification of price and terms as may from time to time be deemed proper by the Governor in Council, to the first applicant who complies with the conditions required, the first locatee excepted, who shall in no case be allowed to re-purchase at private sale, unless paying up the whole of the arrears due with interest up to the date of such sale.

Sale not to be to the former locatee unless he pay in full.

No such sale within six months.

Proviso: lot to be withdrawn on payment in full by locatee.

What shall be held to be compliance with the terms of purchase or lease.

XI. Provided always, and be it enacted, That no sale shall be made under the provisions of this Act, until after the expiration of six calendar months from the passing thereof: And provided further, that if the original locatee or purchaser of any lot so advertised for sale, shall at any time before the day of sale pay one of the instalments due on the said lot with interest accrued thereon, then it shall be the duty of the Commissioner of Crown Lands to withdraw the said lot from the intended sale; and the said original locatee or purchaser shall be held to comply with the conditions of his purchase or lease so long as he continues to pay yearly one of the instalments due with interest, or three years' rent or interest for lots on lease or on quit rent, otherwise the lot shall again be liable to be sold as aforesaid, for the remaining instalments due.

Copies of field notes of certain surveys to be deposited in the Registry offices.

XII. And be it enacted, That the Commissioner of Crown Lands shall with all convenient speed cause to be prepared and deposited in the Register Office of each County in Canada, correct copy of the Field Notes of the original surveys of each and every Township, in such County, and shall endorse on each copy a certificate signed by himself of the correctness thereof.

XIII.

XIII. And be it enacted, That in all and every of the Courts of this Province, a copy certified by the said Registrar under his hand shall be received and held as *prima facie* evidence of the contents of the said Field Notes, without the production of the originals thereof, or of the copies so deposited with the Registrar as aforesaid.

Effect of copies certified by the Registrar.

XIV. And be it enacted, That the words "Commissioner of Crown Lands" in this Act, or in any other Act relating to the administration of the Public Lands of this Province, shall also be held to mean the Assistant-Commissioner of Crown Lands, or any other Officer duly commissioned to perform the duties assigned to the Commissioner of Crown Lands.

Interpretation clause.

C A P . X X X I I .

An Act to provide for certain expenses of the Civil Government, and for other purposes therein mentioned.

[30th May, 1849.]

MOST GRACIOUS SOVEREIGN :

WHEREAS by Messages from His Excellency, The Right Honorable James, Earl of Elgin and Kincardine, Governor-General of British North America, and Captain-General and Governor in Chief in and over this Province of Canada, bearing date respectively the twenty-sixth day of March, and the twenty-third day of May, in this present year, one thousand eight hundred and forty-nine, and the Estimates accompanying the same, it appears that the sums hereinafter mentioned are required to defray certain Expenses of the Civil Government of the Province for the year one thousand eight hundred and forty-nine, and for certain other public purposes for which no provision is now made by Law: May it therefore please Your Majesty that it may be enacted, and be it enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and out of any unappropriated monies forming part of the Consolidated Revenue Fund of this Province, there shall and may be paid and applied a sum not exceeding one hundred and seventy-nine thousand four hundred pounds, fourteen shillings and two pence, currency, for defraying certain expenses of the Civil Government of this Province, for the year ending on the thirty-first day of December, one thousand eight hundred and forty-nine, not otherwise provided for by Law, and for certain other public purposes and services specified in the Estimates accompanying the Messages above mentioned, and voted by the Legislative Assembly.

Preamble.

His Excellency's messages of 26th March, 1849, and 23d May, 1849, recited.

Appropriation of £179,400 14s 2d for expenses of the Government for 1849, and certain other purposes.

II. And be it enacted, That it shall be lawful for the Governor in Council, to raise by way of loan on the credit of the Consolidated Revenue Fund of this Province, and to apply for the purpose of defraying the expenditure to be incurred for the completion of certain Public Works mentioned in the said Messages and Estimates, a sum not exceeding seventy-one thousand, four hundred and ninety-four pounds, six shillings and four pence currency; and for the purpose of raising such sum as aforesaid, it shall be lawful for the Governor in Council to authorize the issue of Debentures to an amount

£71,494 6s. 4d. appropriated for completing certain public works.

The said sum to be raised by

amount

the issue of debentures.

amount not exceeding in the whole the sum last aforesaid in such form, for such separate sums, at such rate of interest not exceeding six per centum per annum, and to make the principal and interest thereon payable at such periods and at such places, as to Him shall seem most expedient, the said Principal and Interest being hereby made chargeable on the Consolidated Revenue Fund of this Province.

£5092 4s. 7d. appropriated for educational purposes out of the Jesuits Estates' Fund.

III. And be it enacted, That from and out of the Revenues and Interest arising from the Real or Funded Property forming part of the Estates of the late Order of Jesuits, there shall be paid for and during the present year, one thousand eight hundred and forty-nine, a sum not exceeding five thousand and ninety-two pounds, four shillings and seven pence, currency, for the Educational purposes set forth in the said Messages and Estimates.

£5000, to be raised by the issue of Debentures secured on a special fund, and to be applied to complete the Lunatic Asylum at Toronto, under 9 V. c. 61.

IV. And be it enacted, That it shall be lawful for the Governor in Council, to raise by way of loan under the provisions of the Act passed in the ninth year of Her Majesty's Reign, and intituled, *An Act to authorize the issue of Debentures for the erection of a Lunatic Asylum at Toronto*, a sum not exceeding Five thousand pounds, in addition to the sum authorized by the said Act to be raised; and to apply the said sum to the completion of the Lunatic Asylum at Toronto in the manner provided by the said Act; the said sum to be raised by the issue of Debentures to which all the provisions of the said Act shall apply, and the principal and interest whereof shall not be chargeable upon the Consolidated Revenue Fund of this Province, but shall be payable out of the proceeds of the rate or tax mentioned in the second section of the said Act, and which are hereby specially appropriated to the payment thereof after the payment of the sum authorized to be raised under the said Act.

Accounting clause.

V. And be it enacted, That the due application of the monies hereby appropriated shall be accounted for to Her Majesty, Her Heirs and Successors, through the Lords Commissioners of Her Majesty's Treasury for the time being, in such manner and form as Her Majesty, Her Heirs and Successors shall direct.

Accounting clause.

VI. And be it enacted, That a detailed account of the monies expended under the authority of this Act, shall be laid before the Legislative Assembly of this Province, during the first fifteen days of the Session of the Provincial Parliament next after such expenditure.

CAP. XXXIII.

An Act to indemnify Members of the Legislative Assembly for their expenses in attending the Sessions of the Legislature.

[30th May, 1849.]

Preamble.

WHEREAS it is expedient to make provision by law for indemnifying Members of the Legislative Assembly for the expenses by them incurred in attending the Sessions of the Provincial Parliament: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom

Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada,*” and it is hereby enacted by the authority of the same, That for the present Session of the Provincial Parliament, and for each Session thereafter, there shall be allowed to each Member of the Legislative Assembly attending at any such Session, twenty shillings for each day’s attendance thereat, and six pence for each mile of the distance between the place of residence of such Member and the place at which the Session shall be held.

Rate of indemnity per diem, and per mile.

II. And be it enacted, That the sum due to each Member at the close of any Session, shall be paid to him by the Clerk of the Legislative Assembly, on such Member signing a declaration to be kept by the said Clerk, and stating the number of days’ attendance and the number of miles of distance for which such Member is entitled to an allowance, and the amount of such allowance; and that each day on which the Member shall have attended any sitting of the Legislative Assembly or of any Committee thereof, and each day during the Session on which there shall have been no sitting of the Legislative Assembly, or on which he shall have been prevented by sickness from attending any sitting, but on which he shall, in either case, have been in the place where the Session is held, shall be reckoned as a day of attendance at such Session.

How the indemnity shall be ascertained and paid.

III. And be it enacted, That there be granted to Her Majesty, out of any unappropriated monies forming part of the Consolidated Revenue Fund of this Province, an annual sum, sufficient to enable Her Majesty to advance to the Clerk of the Legislative Assembly of this Province, such sum of money as shall be required to pay the estimated amount of such Sessional allowance according to the foregoing sections of this Act.

Appropriation to defray the same.

IV. And be it enacted, That the Clerk of the Legislative Assembly of this Province shall account for such monies as he shall receive under this Act, in the same manner as for monies advanced to him for the contingent expenses of the said Legislative Assembly, and that he may apply any surplus thereof to the payment of such contingent expenses, and may supply any deficiency of such estimated amount to meet the same, out of any monies in his hands applicable to the payment of such contingent expenses.

Monies to be accounted for as contingent expenses of the Assembly.

C A P. XXXIV.

An Act to make provision for the Management of the Post-Office Department whenever it shall be transferred to the Provincial Government.

[30th May, 1849.]

WHEREAS it is expedient that a uniform and cheap rate of Postage should be established throughout British America; And whereas the Imperial Government has signified to His Excellency the Governor-General its readiness to relinquish the management of the Post-Office Department so soon as a uniform system of Postage should be agreed upon by the different local Governments; And whereas the different local Governments of British America have agreed upon the following propositions, namely:

Preamble.

That

Recital of propositions agreed to by the several British American Governments.

That there be one uniform rate of three pence, Provincial Currency, throughout British North America ;

That no Transit Postage between the Provinces be allowed ;

That two pence sterling the half ounce shall remain as the rate in operation as regards letters by British Mails, to be extended to countries having postal conventions with Great Britain, (unless Her Majesty's Government shall see fit to permit this rate to be changed to three pence currency) ;

That the Pre-payment of Postage shall be optional ;

That each Province shall retain the amount of Postage it collects ;

That the Packet Postage shall be paid in England, the Provincial rate of two pence sterling to belong to the Province which collects it, and if pre-paid in England, to be credited to the Province to which the letter is addressed ;

That no privilege of Franking be allowed ;

That Postage Stamps for Pre-payment be allowed, and Colonial Stamps be engraved ;

That Newspaper, Pamphlet and Magazine Postage be allowed to remain at present rates, with power to each Legislature to send them free of charge ;

And that the rate of remuneration for the Transport of British Mails by Express through the Provinces of Nova Scotia and New Brunswick be left for future arrangement.

And whereas the Imperial Government has approved the said propositions, but nevertheless Legislative action is necessary to enable Her Majesty's Government to give effect to the proposed arrangements ; And whereas it is expedient to enable the Governor-General in Council to give effect to such arrangements as he may deem right for the establishment of a uniform rate of Postage, so soon as the necessary enactment may have been passed by the Imperial Legislature : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall be lawful for the Governor in Council to enter into such arrangements with the Imperial Government, and with the Provincial Governments of the other British North American Provinces, as shall, in the opinion of the Governor in Council, be expedient to secure a uniform and cheap rate of Postage ; And that it shall also be lawful for the Governor in Council to make all such regulations for the management of the Post-Office Department and the Officers thereof, and of all matters thereunto belonging, as to Him may seem meet, and from time to time to alter the same ; which regulations shall have the same force and effect as if embodied in this Act until the expiration of the next Session of the Provincial Parliament.

Governor in Council may enter into arrangements and make regulations for the management of the Post-Office Department, until the end of the next Session.

II. And be it enacted, That such Regulations as shall be then in force shall be laid before both Houses of the Provincial Parliament within ten days after the opening of the next Session of the said Parliament, and that the same shall remain permanently in force as law, unless it shall be otherwise provided in some Act to be passed during the said Session.

Regulations to be laid before the P. O. Parliament, and to remain in force unless it be otherwise provided.

III. And be it enacted, That it shall be lawful for the Governor in Council to pay out of the Consolidated Revenue Fund such sums (if any) as may be required to make up any deficiency in the Funds arising from the Revenue of the Post-Office Department to meet the expenses thereof.

Appropriation to meet any deficiency, in the P. O. Revenue to meet its expenses.

C A P. XXXV.

An Act to repeal certain Acts therein mentioned, and to make better provision respecting the admission of Land Surveyors and the Survey of Lands in this Province.

[30th May, 1849.]

WHEREAS the Laws now in force in this Province respecting Land Surveyors and the Survey and Admeasurement of Lands are in many cases, owing to the changes which have taken place in the method of surveying lands, found to be inapplicable: And whereas it is expedient to consolidate and amend them: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the Ordinance passed in the twenty-fifth year of the Reign of His late Majesty King George the Third, by the Lieutenant-Governor and Legislative Council of the late Province of Quebec, intituled, *An Ordinance concerning Land Surveyors and the Admeasurement of Lands*,—and the Act of the Legislature of the late Province of Upper-Canada, passed in the thirty-eighth year of the Reign of His said late Majesty King George the Third, intituled, *An Act to ascertain and establish on a permanent footing the boundary lines of the different Townships of this Province*,—and the Act of the said Legislature, passed in the fifty-ninth year of the Reign of His said late Majesty King George the Third, and intituled, *An Act to repeal an Ordinance of the Province of Quebec, passed in the twenty-fifth year of His Majesty's Reign, intituled, 'An Ordinance concerning Land Surveyors and the Admeasurement of Lands,' and also to extend the provisions of an Act passed in the thirty-eighth year of His Majesty's Reign, intituled, 'An Act to ascertain and establish on a permanent footing the boundary lines of the different Townships of this Province, and further to regulate the manner in which Lands are hereafter to be Surveyed,'*—and the Act of the said Legislature, passed in the second year of Her Majesty's Reign, and intituled, *An Act to extend the provisions of an Act passed in the fifty-ninth year of the Reign of His late Majesty King George the Third, intituled, 'An Act to repeal an Ordinance of the Province of Quebec, passed in the twenty-fifth year of His late Majesty's Reign, intituled, "An Ordinance concerning Land Surveyors and the Admeasurement of Lands, and also to extend the provisions of an Act passed in the thirty-*

Preamble.

Certain Ordinances and Acts repealed.

Quebec, 25 G. 3. c. 3.

U. C. 38 Geo. 3. c. 1.

U. C. 59 G. 3. c. 14.

U. C. 2 Vic. c. 17.

“ eighth

“ eighth year of His late Majesty’s Reign, intituled, “ ‘ An Act to ascertain and establish
 “ on a permanent footing the boundary lines of the different Townships in this Province,”
 and further to regulate the manner in which Lands are hereafter to be surveyed,”—and
 the Act of the Legislature of this Province, passed in the Session held in the fourth
 and fifth years of Her Majesty’s Reign, and intituled, *An Act to grant authority to
 licensed Surveyors, in that part of this Province called Upper-Canada, to administer
 an Oath in certain cases, and to protect them while in the discharge of their duty in
 Surveying Lands,*—shall be and the said Acts are hereby repealed: Provided always,
 that no Ordinance, Act or provision of law repealed by those hereby repealed, or by
 any of them, shall revive, but shall be and remain repealed; And provided also, that all
 the boundary or division lines legally established, and ascertained under the authority
 of the Ordinance or Acts hereby repealed, or any of them, shall remain good, and all
 other acts, and things legally done and performed under the authority of the said Ordinance
 and Acts, or any of them, and in conformity to the provisions thereof, shall remain good
 and valid notwithstanding such repeal, and all prosecutions and all actions or suits at law
 or in equity actually commenced before the passing of this Act, under the provisions of the
 said Ordinance or Acts, or any of them, may be continued, tried and determined, and
 execution may be done therein, as if this Act had not been passed.

Canada.
4 & 5 Vic.
c. 9.

Proviso.
Repealed Acts
not to revive.
Proviso.
Things done to
remain good.

Penalty on persons
practising
as Surveyors
without being
duly licensed.

II. And be it enacted, That no person shall, after the passing of this Act, survey
 lands for hire or profit within Upper-Canada or Lower-Canada, or act in any way as a
 Land Surveyor within either portion of this Province, for hire or profit, unless he shall
 be duly authorized to practice as a Land Surveyor according to the provisions of this
 Act, or shall have been so authorized before the passing thereof, according to the Laws
 then in force, under a penalty of Ten pounds currency for each offence, to be recovered
 by any person who shall sue for the same in any Court having Civil Jurisdiction to the
 amount of such penalty, one moiety whereof shall belong to Her Majesty and make
 part of the Consolidated Revenue Fund of this Province, and the other moiety shall
 belong to the person suing for the penalty.

Qualification
of persons ap-
plying to be li-
censed as Sur-
veyors.

Period of ser-
vice or appren-
ticeship.

Proviso as to
persons already
admitted in
one part of the
Province and
wishing to
practise in the
other.

III. And be it enacted, That from and after the passing of this Act, no person shall
 be admitted to practice as a Land Surveyor in and for Upper-Canada or Lower-Canada,
 until he shall have attained the full age of twenty-one years, nor unless he shall have
 gone through a course of Geometry, including at least the first six books of Euclid, and
 of plain Trigonometry, Mensuration of Superficies, Plotting and Map Drawing, and
 be well versed therein, and shall also be sufficiently conversant with Spherical Trigonometry
 and Astronomy to enable him to ascertain the latitude, and to draw a meridian
 line, and shall have served regularly and faithfully, for and during the space of three
 successive years, under an Instrument in writing duly executed before two witnesses, or
 in Lower-Canada under a Notarial Acte, as Apprentice to a Land Surveyor for Upper-
 Canada or Lower-Canada, duly admitted and practising therein as such, nor until he
 shall have received from the said Land Surveyor a certificate of his having so served
 during the said period: Provided nevertheless, that any person who shall have been
 admitted to practice as a Land Surveyor in Lower-Canada shall not, in order to be
 admitted to practice in Upper-Canada, be holden to serve under an Instrument in
 writing during three years as aforesaid in Upper-Canada, but only during six months of
 actual practice in the field with a Land Surveyor duly admitted and practising in Upper-
 Canada, after which he may undergo the examination by this Act prescribed, on com-
 plying with all the other requirements thereof, and the like rule shall apply to persons
 admitted

admitted to practice in Upper-Canada who shall wish to practice in Lower-Canada; Provided also, that any Land Surveyor duly admitted to practice in any of Her Majesty's Dominions other than this Province; shall not be holden to serve under an Instrument in writing during three years as aforesaid, but only during twelve successive months of actual practice, after which he may undergo the examination by this Act prescribed, on conforming with all the other requirements thereof; And provided also, that any person who shall, before the passing of this Act, have been *bonâ fide* an Apprentice under some agreement in writing, to a Land Surveyor duly admitted and practising in and for Upper-Canada or Lower-Canada, and shall have served regularly and faithfully as such, shall be entitled to reckon the time he shall have so served as part of the three years during which, under this Act, he ought to serve before he can be admitted as a Land Surveyor, provided such person shall, within three months after the passing of this Act, become regularly articulated by an Instrument in writing as aforesaid to some Land Surveyor, duly admitted and practising in and for Upper-Canada or Lower-Canada, and shall afterwards complete the remainder of the said period of three years, according to the requirements of this Act; And provided also, that the fact of his having so served before the passing of this Act, shall be proved on oath, by himself, and by other evidence to the satisfaction of the Board of Examiners, any one of whom is hereby empowered to put the requisite questions, and to administer the requisite Oath or Affidavit, which shall be signed by the person making the same, and shall remain with the said Board: Provided also, that if any Surveyor shall die or leave the Province, or be suspended or dismissed as hereinafter provided, his Apprentice may complete his term of Apprenticeship, under an Instrument in writing as aforesaid, with any other Surveyor duly admitted: Provided also, that it shall be lawful for any Surveyor to transfer, by an Instrument in writing as aforesaid, his Apprentice, with his consent, to any other Surveyor duly admitted, with whom he shall serve the remainder of the term of his apprenticeship.

Proviso as to persons admitted to practise in other parts of H. M. dominions.

Proviso as to persons apprenticed before the passing of this Act.

Proviso: proof of service required.

Proviso as to death of the Master, &c.

Proviso as to transfer of indentures.

IV. And be it enacted, That before any person shall be admitted to practise as a Land Surveyor in Upper-Canada or for Lower-Canada, he shall be publicly examined with respect to his ability, and the sufficiency of his instruments, by a Board of Examiners composed of the Commissioner of Crown Lands, and six other competent persons to be appointed from time to time by the Governor, Lieutenant-Governor, or Person administering the Government of this Province for the time being, and who shall take an Oath of Office, and any three of such seven Examiners shall form a *quorum*; and the said Examiners, if satisfied of his ability as hereinbefore provided, and of his having complied with all the requirements of this Act, and of the sufficiency of his surveying instruments, shall give him a Certificate thereof, and of his being admitted as a Land Surveyor, in the form of a Schedule A. to this Act; and such Certificate shall, on his complying with the other requirements of this Act, enable him to practise as a Land Surveyor in and for Upper-Canada or in and for Lower-Canada, as the case may be: Provided always, that it shall be the duty of the said Examiners to cause all persons applying for admission to practise as such Land Surveyors, to produce satisfactory Certificates as to character for probity and sobriety, and to perform such practical operations in their presence as they shall require, previous to their giving him their Certificate, and to answer such questions on oath, (which oath any one of the Examiners may administer) with regard to the actual practice of such applicant in the field and with regard to his instruments.

Candidates for admission as Surveyors to undergo an examination before a Board to be appointed for that purpose.

Certificate to be given to qualified candidates.

Proviso: Candidates to produce Certificates of character. They may be questioned upon oath.

Board may appoint a Secretary: his duties.

V. And be it enacted, That the said Board, or a majority thereof, shall and may appoint from time to time a fit and proper person to be Secretary of the Board, who shall attend the sittings thereof, and keep a record of its proceedings, of which he shall have the custody.

Meetings of the Board.

VI. And be it enacted, That the said Board shall meet at the Office of the Commissioner of Crown Lands, on the first Monday in each of the months of January, April, July and October, in every year, unless such Monday be a Holy-day, (in which case they shall meet on the day next thereafter not being such holy-day,) and may adjourn such meeting from time to time if they shall deem it necessary.

Power to adjourn.

Candidates to give notice to the Secretary.

VII. And be it enacted, That every person desiring to be examined by the Board as to his qualification to be admitted as a Land Surveyor, shall give due notice thereof in writing to the Secretary of the said Board, at least one week previous to the meeting thereof, and shall then pay to the Secretary five shillings as his fee for receiving and entering such notice; and each applicant obtaining a Certificate, shall pay to the said Secretary ten shillings as his fee upon the Certificate.

Fee on receiving certificate.

Contribution towards the expenses of the Board.

VIII. And be it enacted, That each applicant receiving a Certificate as aforesaid, shall pay to the Secretary a sum of two pounds ten shillings, currency, for the same, out of which sum the expenses attending the examination of such applicant (if any) shall first be paid, and the remainder shall be divided equally among such Members of the Board as shall have attended the examination of such applicant, and shall not be salaried officers of the Government.

Candidates admitted to give security.

IX. And be it enacted, That each applicant after receiving the above mentioned Certificate, shall enter into a bond jointly and severally with two sufficient sureties to the satisfaction of the said Board of Examiners, in the sum of two hundred and fifty pounds currency, to Her Majesty, Her Heirs and Successors, conditioned for the due and faithful performance of the duties of his office, and shall take and subscribe the oath of allegiance, and the following oath, before the Board of Examiners who are hereby empowered to administer the same:—

And take the oath of allegiance and of office.

The oath of office.

“ I, A. B. do solemnly swear (or affirm, as the case may be) that I will faithfully discharge the duties of a Land Surveyor, agreeably to law, without favour, affection or partiality. So help me God.”

Deposit of oaths.

And the said oaths shall be deposited in the Office of the Commissioner of Crown Lands, and the said bond shall be deposited and kept in the manner by law prescribed with regard to the bonds given for like purposes by other public officers, and shall enure to the benefit of any party sustaining damage by breach of the condition thereof, and the certificate shall be registered in the office of the Registrar of the Province.

And of the certificate.

Board may suspend or remove a Surveyor.

Proviso: the party accused to be summoned and heard.

X. And be it enacted, That it shall be lawful for the Board of Examiners to suspend or disinniss any Land Surveyor from the practice of his profession, as they shall in their discretion deem proper whom they shall find guilty of gross negligence or corruption in the execution of the duties of his office: Provided nevertheless, that the Board shall not suspend or dismiss such Land Surveyor, without having previously summoned him to appear in order to be heard on his defence, nor without having heard the evidence,

evidence, which shall have been offered either in support of the complaint or in behalf of the Surveyor inculpated.

XI. And be it enacted, That each and every chain-bearer, whether acting in Upper or in Lower-Canada, shall, before he commences his chaining or measuring, take an oath or affirm, to act as such justly and exactly according to the best of his judgment and abilities, and to render a true account of his chaining or measuring to the Surveyor by whom he may have been appointed to such duty, and that he is absolutely disinterested in the survey in question, and is not related or allied to any of the parties interested in the survey within the fourth degree, according to the computation of the civil law, that is to say, within the degree of Cousin German, which oath the Surveyor employing such chain-bearer is hereby authorized and required to administer; nor shall any person related or allied to any of the parties within the said degree, be employed as a chain-bearer on any survey.

Chain-bearers to be sworn.

Not to be related to the parties.

XII. And be it enacted, That the Commissioner of Crown Lands shall procure a Standard of English Measure of length, and a Standard of the old French Measure of length, compared with and corrected by the Standards for such Measures established in this Province, which shall remain in his office for the purpose of comparing therewith the Standards to be kept by each Surveyor as hereinafter provided.

Standard measures to be kept by the Commissioner of Crown Lands.

XIII. And be it enacted, That each and every Land Surveyor duly admitted, and practising, or who shall be hereafter admitted for Upper or Lower-Canada, shall procure and shall cause to be examined, corrected and stamped or otherwise certified, by the Commissioner of Crown Lands, or some one by him deputed for that purpose, a Standard Measure of length, under the penalty of the forfeiture of his License or Certificate, and shall, previously to proceeding on any survey, verify the length of his chains and other instruments for measuring by such standard.

Surveyors to have a standard to check their measures by.

XIV. And be it enacted, That from and after the passing of this Act, if any person or persons shall, in any part of this Province, interrupt, molest or hinder any Land Surveyor, while in the discharge of his duty as a Surveyor, such person or persons shall be deemed to have been guilty of a misdemeanor, and being thereof lawfully convicted in any Court of competent jurisdiction, may be punished either by fine or imprisonment, or both, in the discretion of such Court, such imprisonment being for a period not exceeding two months, and such fine not exceeding five pounds, without any prejudice to any civil remedy which such Surveyor or any other party may have against such offender or offenders, in damages by reason of such offence; and any Land Surveyor, when engaged in the performance of the duties of his profession, shall be, and he is hereby authorized and empowered to pass over, measure along and ascertain the bearings of any Township line, concession or range line or other governing line or side line, and for such purposes to pass over the lands of any person whomsoever, doing no actual damage to the property of such person; any law to the contrary notwithstanding.

Punishment of persons molesting Surveyors on duty.

Civil remedy not taken away.

Power to Surveyor to examine certain lines; doing no actual damage.

XV. And be it enacted, That every such Land Surveyor who shall survey or admeasure lands in Lower-Canada shall, when thereunto required by the parties, place one or more boundary marks of stone, either to mark the boundary of any property or to show the course of any line of division, of which boundary marks, the length above ground shall be six inches at least, between Seigniors or between Co-Seigniors,

Mode of bounding lands in Lower-Canada.

Certain substances to be put under boundary marks.

Seigniors, or between two Townships, or between a Seignior and a Township, or between the Waste Lands of the Crown and a Seignior or Township, and at least three inches above the ground between persons holding grants in a Seignior or Township, and at least twelve inches in the ground in every case; and under such boundary marks he shall place pieces of brick, or delf, or earthenware, slag of iron, or broken glass, and in the country parts and open ground, before every boundary mark, a post of squared timber.

Procès Verbaux to be made by Surveyors in Lower Canada, and their form and contents.

Further particulars in such *Procès Verbaux*.

Procès Verbal to be signed, &c.

No erasure or interlineation allowed.

Recital of doubts as to certain *Procès Verbaux*.

XVI. And be it enacted, That each and every such Land Surveyor who shall hereafter be employed in any survey in Lower-Canada shall, as soon as his operations shall be finished, if he have placed any boundary mark, or if thereunto required by any party employing him, or by the Court under whose order he shall act, draw up a *Procès Verbal*, in which he shall on pain of nullity and under the penalty imposed for any contravention of this Act, insert the date of the said *Procès Verbal*, and shall mention by the order of what Court or at whose desire and at what time or times he shall have operated, the residence of the parties and their additions, and his own name and residence: And in such *Procès Verbal* the Surveyor shall, under the penalty last aforesaid, faithfully detail what he shall have done, according to the nature of the survey required of him, stating whether any and what title deeds were produced to him, according to which he may have guided his operations,—what is the form and the area of ground which he has surveyed,—what chainings he has performed, and what lines he has drawn, gone over or verified,—what remarkable fixed objects his lines may have intersected or run close to,—the true and also the magnetical course by his instrument of any lines he shall have drawn or verified, and the day and place, when and where the variation of such instrument shall have been then last ascertained by him, and whether it was so ascertained by the public meridian lines or marks hereinafter mentioned, (if any such lines or marks are established) or by direct astronomical observation; he shall also state what he has put under any boundary marks he may have placed, their respective distances from each other, (when there are several,) and their distance from any remarkable and fixed object: And the said Land Surveyor shall, on pain of nullity, and of the penalty last aforesaid, cause such *Procès Verbal* to be signed by the parties if they be present and able and willing to sign, and if they or any of them be not present or be unable or unwilling to sign, mention shall be made of the fact; and any party assenting to the *Procès Verbal*, but unable to sign, shall make his mark; and such *Procès Verbal* shall be signed by the Land Surveyor and by two witnesses, the said *Procès Verbal* being first read aloud in the presence of all the persons signing the same, all which facts shall be mentioned in the *Procès Verbal*, on pain of nullity and under the penalty last aforesaid, and he shall preserve the same as a minute, of which he shall give copies to the parties concerned; and he shall not enter any interlineations nor make any erasure in his minutes, nor in the copies thereof, but shall mention the number of words struck out, and also the number of marginal references in each of his minutes, or copies of *Procès Verbaux*, which references shall, in the minute, be signed with the initials of the parties, witnesses and Land Surveyor, or of such of them as can sign, and in any copy by the initials of the Land Surveyor, otherwise they shall be null and void.

XVII. And whereas from various causes, and more especially since the expiration of the Act of the Legislature of Lower-Canada, passed in the second year of the Reign

Reign of His Majesty King William the Fourth, and intituled, *An Act to repeal an Ordinance therein mentioned, and to provide more ample regulations respecting Land Surveyors, and the Admeasurement of Lands*, and the consequent revival of the Ordinance hereby and by the said Act repealed, many *Procès Verbaux* of Survey have been drawn up in a manner substantially correct, but not in the precise form required by the said Ordinance, and doubts might arise as to the validity of such *Procès Verbaux*, and law-suits and vexatious proceedings might grow out of the same: For remedy thereof—Be it enacted, That all now existing *Procès Verbaux* of Survey in Lower-Canada signed or assented to by the parties interested, or made under the order of any Court and accepted and confirmed by such Court, and every other such *Procès Verbal* of Survey made before or within three months after the passing of this Act, which shall substantially contain such particulars as may be requisite for the full understanding of the Survey or operation to which it relates, and of the doings of the Surveyor and the intention of the parties interested with regard to the same, shall be held to be authentic and valid, and shall have effect according to the tenor thereof, whatever be the form in which the same may have been drawn up.

Act of L. C.
2. W. 4. c. 21.

Informal *Procès Verbaux* confirmed in certain cases.

XVIII. And whereas it hath also happened that boundary stones and other boundary marks have been placed by Surveyors, which have not the dimensions, or are not of the materials, or are not accompanied by the marks prescribed by the said Ordinance, and law-suits and difficulties might arise in consequence: For remedy thereof—Be it enacted, That every such boundary mark in Lower-Canada, placed by a Surveyor before or within three months after the passing of this Act, and referred to in his *Procès Verbal*, shall be held to be effective and valid, if its place can be ascertained from such *Procès Verbal*, whatever be the form, dimensions or material thereof: Provided always, that nothing contained in this Section or in that next preceding it, shall be construed to render valid or effective any *Procès Verbal*, or boundary made or placed more than three months after the passing of this Act, and with regard to which the absolute requirements of this Act, on pain of nullity, shall not have been complied with, but such *Procès Verbal* or boundary shall be null and void and of no effect, except only that in places where stones of the proper size cannot be procured, (which fact shall appear by the *Procès Verbal*.) boundary marks of wood or other material may be used, and they shall have the same effect as the boundary marks of stone mentioned in this Act.

Recital of doubts as to certain boundaries.

Boundaries confirmed in certain cases.

Proviso as to future cases.

XIX. Provided always, and be it enacted, That in Cities, Towns and places in Lower-Canada where, from local circumstances, boundary stones or marks cannot be placed, the Surveyor shall in his *Procès Verbal* mention the fact, and shall fix the boundaries and describe his operations, by referring to streets, neighbouring properties and other fixed objects, so as to enable any other Surveyor from such *Procès Verbal*, to repeat the operations, and ascertain the boundaries, points, lines and other particulars therein mentioned.

Provision as to boundaries in Cities and Towns in L.C.

XX. And be it enacted, That the Surveyor employed to make any Survey in the Townships of Lower-Canada shall govern himself by the Surveys made under the plans and instructions issuing from the Surveyor-General's Office, or that of the Commissioner of Crown Lands, or other Officer performing the duties of Surveyor-General as aforesaid, and whenever it shall happen that the posts or boundary marks between any lots or ranges of lots shall be effaced, removed or lost, such Surveyor may

By what rules Surveyors shall be governed in making surveys in the Townships of Lower-Canada.

may examine witnesses on oath, (which he is hereby authorized to administer), for the purpose of ascertaining the former boundaries, but if the same cannot be ascertained, then the Surveyor shall measure the true distance between the nearest undisputed posts, limits or boundaries, and divide such distance into such number of lots as the same contained in the original Survey, of a breadth proportionate to that intended in such original Survey, as shown on the plan and field-notes thereof of record in such Public Office as aforesaid, and when any part of any Concession or Range Line, intended in the original Survey to be straight, shall be obliterated or lost, then the Surveyor shall run a straight line between the two nearest points or places where such line can be clearly and satisfactorily ascertained, and shall plant all such intermediate posts or boundaries as he may be required to plant in the line so ascertained, and the limits of each lot so found shall be taken to be and are hereby declared to be the true limits thereof; any law or usage to the contrary thereof in any wise notwithstanding.

Governor may if he thinks it necessary have meridian lines drawn.

XXI. And be it enacted, That the Governor of this Province may, if he shall at any time deem it expedient, direct a meridian line to be properly drawn and marked, or the bearings between certain fixed points and objects to be so ascertained as to enable a Surveyor thereby to ascertain the variation of his instrument from the meridian, in or near the Cities of Quebec and Montreal, and the Town of Three-Rivers, and the Towns of Sherbrooke and New Carlisle, by some Land Surveyor whom the Governor may appoint, and by which the Land Surveyors, operating in such Districts, may verify their instruments when necessary.

Measures for land in Lower-Canada fixed.

XXII. And be it enacted, That the measure for Land in Lower-Canada shall be the same as it was before the Year of Our Lord one thousand seven hundred and sixty, in all grants of Seigniories, and in the Concessions which have therein been made up to the present time, but in the Townships of Lower-Canada the measure for Land shall be English measure.

Penalty for putting improper substances under boundaries in L. C.

XXIII. And be it enacted, That every Land Surveyor who shall, in Lower-Canada, after the expiration of three months from the passing of this Act, put as evidence or indications of his boundary marks, any other matter than is ordered by the Fifteenth Section of this Act, shall for each offence incur a penalty of Five pounds.

Surveyors in L. C. to keep their *Procès Verbaux* in proper order.

XXIV. And be it enacted, That each Land Surveyor practising in Lower-Canada shall collect and place in regular and due order, all and every the minutes of *Procès Verbaux* that may have been, or may be drawn up by him, in the order of time in which such *Procès Verbaux* may have been drawn up; and shall collate and put up minutes of his *Procès Verbaux* of every year in separate bundles, folded and covered with strong paper in the manner of a register, on the back of which shall be endorsed the general contents of each bundle, and he shall make a repertory and index thereto.

As to the official papers of a surveyor in L. C. dying.

XXV. And be it enacted, That when any Land Surveyor practising in Lower-Canada shall die, his registers, minutes, plans and other papers relative to his professional acts, and signed by him, shall be holden to be public records of the Court of Queen's Bench within the jurisdiction of which he may have acted as a Land Surveyor, and shall be deposited in the Office of the said Court, for the benefit of all persons therein concerned—who shall have free access thereto; and the Clerk or Clerks of the said Court shall deliver copies thereof to such persons as may require them, upon their paying

paying the usual and legal fees; and the widow, or if there be no widow, the heirs of such Land Surveyor so deceased, and whose registers, minutes, plans and other papers shall so have been deposited, shall be entitled to an annual correct account of the fees received by the said Clerk or Clerks, for the copies so delivered, and to receive one half thereof, for and during the space of five years from and after the day of the decease of such Land Surveyor.

Share of the widow, &c., in the fees on such papers.

XXVI. And whereas it is expedient to provide means for ascertaining and permanently defining and marking the angles and boundary lines of Townships or Concessions in Upper-Canada: Be it therefore enacted, That stone monuments or monuments of other durable materials, shall be placed at the several corners, governing points or offsets of every Township that hath been surveyed, or may hereafter be surveyed in Upper-Canada, and also at each end of the several Concession Lines of such Townships; and that lines drawn in the manner hereinafter prescribed from the monuments so erected, or to be erected, shall be taken and considered to be the permanent boundary lines of such Townships and Concessions, respectively.

Recital.

Stone monuments may be placed at certain points in Townships in U. C.

XXVII. And be it enacted, That the monuments to be placed as above mentioned shall be so placed under the direction and order of the Commissioner of Crown Lands of this Province.

To be placed under the direction of the Commissioner of Crown Lands.

XXVIII. And be it enacted, That the courses and lengths of the said boundary lines, so ascertained and established, shall on all occasions be and be taken to be the true courses and lengths of the boundary lines of the said Townships and Concessions, in Upper-Canada, whether the same do or do not, on actual survey, coincide with the courses and lengths in any Letters Patent of Grant or other Instrument mentioned and expressed in respect of such boundary lines.

Boundaries ascertained as aforesaid in U. C. to be deemed the true ones.

XXIX. And be it enacted, That if any person or persons shall knowingly and wilfully pull down, deface, alter or remove any such monument so erected as aforesaid, in Upper-Canada, such person or persons shall be adjudged guilty of felony; and if any person or persons shall knowingly and wilfully deface, alter or remove any other landmark, post, or monument placed by any Land Surveyor, to mark any limit, boundary or angle of any Township, Concession, range, lot or parcel of land, in Upper or in Lower-Canada, such person or persons shall be deemed guilty of a misdemeanor, and being convicted thereof before any competent Court, shall be liable to be punished by fine or imprisonment, or both, at the discretion of such Court, such fine not to exceed Twenty-five pounds, and such imprisonment not to be for a longer period than Three months, without any prejudice to any civil remedy which any party may have against such offender or offenders in damages, by reason of such offence; Provided that nothing herein contained shall extend to prevent Land Surveyors, in their operations, from taking up posts or other boundary marks when necessary, after which they shall carefully replace them as they were before.

Punishment of persons removing or defacing land marks in U. C. or in L. C.

Proviso as to Surveyors.

XXX. And be it enacted, That it shall not be necessary for the Commissioner of Crown Lands to proceed to carry the provisions of the Twenty-sixth, Twenty-seventh and Twenty-eighth Sections of this Act into execution, until an application for that purpose shall have been made to the Governor by the District Council of the District in Upper-Canada, in which the Township or Townships interested may be situate,

Monuments not to be placed in U. C. except on the application of the Municipal Council.

who

who shall cause the sum requisite to defray the expenses to be incurred, or the proportion thereof payable by the inhabitants of any Township or Concession, to be levied on the said inhabitants, in the same manner as any sum required for any other local purpose authorized by law may be levied.

Recital.

In what cases the Municipal Council may apply to have monuments placed. U. C.

Expenses to be estimated and provided for.

Legal effect of the operation.

Expenses to be paid to the Government.

Proviso as to adjacent concessions.

Recital.

Boundaries placed under the authority of the Government to be deemed the true ones, &c. U. C.

Townships, &c. to count

XXXI. And whereas in several of the Townships in Upper-Canada, some of the Concession lines, or parts of the Concession lines, have not been run in the original survey performed under competent authority, and the surveys of some Concession lines or parts of Concession lines have been obliterated, and owing to the want of such lines the inhabitants of such Concessions are subject to serious inconvenience: Be it therefore enacted, That it shall be lawful for the District Council of the District in which any Township in Upper-Canada may be situate, on application of one half of the resident land-holders in any Concession, (or without such application if the said Council shall deem it necessary,) to make application to the Governor, requesting Him to cause any such line to be surveyed, and marked by permanent stone boundaries under the direction and order of the Commissioner of Crown Lands, in the manner prescribed in this Act, at the cost of the proprietors of the lands in each Concession or part of a Concession interested; and it shall be lawful for such District Council to cause an estimate of the sum requisite to defray the expenses to be incurred to be laid before them, in order that the same may be levied on the said proprietors, in proportion to the quantity of land held by them respectively in such Concession or part of a Concession, in the same manner as any sum required for any other purposes authorized by law may be levied; and the lines or parts of lines so surveyed and marked as aforesaid, shall thereafter be taken and considered to be the permanent boundary lines of such Concessions or parts of Concessions to all intents and purposes of law whatsoever; and all expenses incurred in performing any survey or placing any monument or boundary under the provisions of this section or of the next preceding section, shall be paid by the District Treasurer to the person or persons employed in such services, on the certificate and order of the Commissioner of Crown Lands; Provided always, that the said lines shall be so drawn as to leave each of the adjacent Concessions of a depth proportionate to that intended in the original survey.

XXXII. And whereas it is necessary to make more definite provision than is now made by law, as to the mode in which the proper courses of boundary lines shall be ascertained in certain cases in Upper-Canada: Be it enacted, That in Upper-Canada all boundary lines of Townships, Cities, Towns, Villages, all Concession lines, governing points, and all boundary lines of Concessions, sections, blocks, gores, commons and all side-lines and limits of lots surveyed, and all posts or monuments, which have been placed or planted at the front angles of any lots or parcels of land, provided the same have been or shall be marked, placed or planted under the authority of the Executive Government of the late Province of Quebec or of Upper-Canada, or under the authority of the Executive Government of this Province, shall be and the same are hereby declared to be the true and unalterable boundaries of all and every of such Townships, Cities, Towns, Villages, Concessions, Sections, Blocks, Gores, Commons, and lots or parcels of land, respectively, whether the same shall upon admeasurement be found to contain the exact width, or more or less than the exact width expressed in any Letters Patent, Grant or other Instrument in respect of such Township, City, Town, Village, Concession, Section, Block, Gore, Common, lot or parcel of land, mentioned and expressed; and such township, city, town, village, concession, section, block, gore, common,

common, lot or parcel of land, shall embrace the whole width, contained between the front posts, monuments or boundaries, planted or placed, at the front angles of any such township, city, town, village, concession, section, block, gore, common, lot or parcel of land as aforesaid, so marked, placed or planted as aforesaid, and no more nor less, any quantity or measure expressed in the original grant or patent thereof notwithstanding; and every patent, grant or instrument, purporting to be for any aliquot part of such township, city, town, village, concession, section, block, gore, common, lot or parcel of land, shall be construed to be a grant of such aliquot part of the quantity the same may contain, whether such quantity be more or less than that expressed in such patent, grant or instrument; any law, usage or custom to the contrary thereof in any wise notwithstanding.

prise all the space included within their boundaries.

As to aliquot parts of Township, &c.

XXXIII. And be it enacted, That in every City, Town or Village in Upper-Canada, which has been surveyed by the authority aforesaid, all allowances for road or roads, street or streets, lane or lanes, common or commons, which have been laid out in the original survey of such City, Town or Village, shall be and the same are hereby declared to be public highways and commons; and all posts or monuments which have been placed or planted in the original survey of such City, Town or Village, to designate or define any allowance for road or roads, street or streets, lane or lanes, lot or lots, common or commons, shall be and the same are hereby declared to be the true and unalterable boundaries of all such roads, streets, lanes, lots and commons; and all Land Surveyors, when employed to make surveys in such City, Town or Village are hereby required to follow and pursue the same rules and regulations in respect of such surveys as is by law required of them when employed to make surveys in Townships.

Road allowances in Cities, &c., to be public highways. U. C.

XXXIV. And whereas many Townships, tracts or blocks of land in Upper-Canada were granted by the Crown to companies and individuals before any surveys were made therein, and such Townships, tracts or blocks of land were afterwards surveyed by the owners thereof: Be it therefore enacted, That all such surveys of such Townships, tracts or blocks of land in Upper-Canada, shall be and the same are hereby declared to be original surveys thereof, and to have the same force and effect as though the said original surveys and plans thereof had been made by the authority aforesaid; and all allowances for roads or commons which have been surveyed in such Townships, tracts or blocks of land, and laid down on the plans thereof, shall be and the same are hereby declared to be public highways and commons; and all lines which have been run and marked in such original surveys, and all posts or monuments which have been planted or placed in such original surveys, to designate and define any allowances for road, concession or concessions, lot or lots of land, common or commons, shall be and the same are hereby declared to be the true and unalterable lines and boundaries of all such allowances for road, common or commons, lot or lots of land, and all Land Surveyors, when employed to make surveys in such Townships, tracts or blocks of land, are hereby required to follow and pursue the same rules and regulations in respect of such Townships, tracts or blocks of land, and the original surveys thereof, as is by law required of them to follow and pursue in all Townships, tracts or blocks of land which have been surveyed by the authority aforesaid.

Recital.

As to lands granted in blocks and subsequently surveyed by the Grantees. U. C.

XXXV. And be it enacted, That the course of the boundary line of each and every concession, on that side from which the lots are numbered, shall be and the same is hereby declared to be the course of the division or side-lines throughout the several townships

Governing lines declared, U. C.

Proviso. townships or concessions in Upper-Canada, respectively, provided always, that such division or side-lines were intended, in the original survey performed under such competent authority as aforesaid, to run parallel to the said boundary; and all Surveyors shall and are hereby required to run all division or side-lines, which they may be called upon by the owner or owners of any lands to survey, so as to correspond with and be parallel to that boundary line of the concession in which such lands are situate,

Proviso. from whence the lots are numbered as aforesaid, provided always, as aforesaid, that such division or side-lines were intended, in the original survey performed under such competent authority as aforesaid, to run parallel to the said boundary; Provided also,

Proviso. that when that end of a concession, from which the lots are numbered, is bounded by a lake or river, or other natural boundary, or when it has not been run in the original survey performed under such competent authority as aforesaid, or when the course of the division or side-lines of the lots therein was not intended in the original survey performed as aforesaid, to run parallel to such Boundary, the said division or side lines shall run parallel to the boundary line at the other extremity of such concession, provided their course was intended, in the original survey performed as aforesaid, to be parallel thereto, and that such boundary line was run in the original survey; Provided further, that when in the original survey, performed under such competent authority as aforesaid, the course of the division or side-lines in any concession was not intended to be parallel to the boundary line at either end of such concession, they shall be run at such angle with the course of the boundary line at that end of the said concession from which the lots are numbered, as is stated in the plan and field-notes of the original survey, of record in the office of the Commissioner of Crown Lands of this Province, provided such line was run in the original survey as aforesaid, or with the course of the boundary line at the other extremity of the said concession, if the boundary at that end of the concession from which the lots are numbered was not run in the original survey as aforesaid; or if neither of the aforesaid boundaries of the concession were run in the original survey, or if it be bounded at each end by a lake or river or other natural boundary, then at such angle with the course of the line in front of the said concession, as is stated in the plan and field-notes as aforesaid; Provided nevertheless, that if any division or side-line between lots, or proof-line intended to be parallel to the division or side-lines between lots, shall have been drawn in any such concession in the original survey thereof, the division or side-lines between the lots therein shall be drawn parallel to such division or side-line or proof-line; and when two or more such division or side-lines or proof-lines have been drawn in the original survey of such concession, that division or side-line or proof-line which is nearest to the boundary of the concession from which the lots are numbered, and shall govern the course of the division or side-lines of all the lots in such concession between the boundary of the concession from which the lots are numbered and the next division or side-line or proof-line drawn in the original survey, which shall govern the course of the division or side-lines of all the lots up to the next division or side-line or proof-line drawn in the original survey; or to the boundary of the concession towards which the lots are numbered, as the case may be: Provided further, that in all those townships in Upper-Canada, which in the original survey have been divided into sections, agreeably to an Order in Council bearing date the twenty-seventh day of March, one thousand eight hundred and twenty-nine, the division or side-lines in all concessions in any section shall be governed by the boundary lines of such section, in like manner as the division or side-lines in townships originally surveyed before the said day are governed by the boundary lines of the concession in which the lots are situate.

XXXVI. And be it enacted, That the front of each concession in any Township in Upper-Canada, where only a single row of posts has been planted on the concession lines, and the lands have been described in whole lots, shall be considered to be, and the same is hereby declared to be that end or boundary of such concession which is nearest to the boundary of the township from which the several concessions thereof are numbered: Provided always, that in those townships in Upper-Canada which are bounded in front by a river or lake where no posts or other boundaries were planted in the original survey on the bank of such river or lake to regulate the width in front of the lots in the broken front concessions, the division or side-lines of the lots in such broken front concessions shall be drawn from the posts or other boundaries on the concession line in rear thereof, parallel to the governing line determined as aforesaid to the river or lake in front: Provided also, that when the line in front of any such concession has not been run in the original survey, the division or side lines of the lots in such concession shall be run from the original posts or monuments placed or planted on the rear line thereof parallel to the governing line determined as aforesaid to the depth of the concession—that is, to the centre of the space contained between the lines in front of the adjacent concessions, if the concessions were intended in the original survey to be of an equal depth, or if they were not so intended, then to the proportionate depth intended in the original survey, as shewn on the plan and field-notes thereof of record in the Office of the Commissioner of Crown Lands of this Province, having due respect to any allowance for a road or roads made in the original survey; and that a straight line joining the extremities of the division or side-lines of any lot in such concession drawn as aforesaid, shall be the true boundary of that end of the lot which has not been run in the original survey.

What shall be deemed the front of a concession in certain cases, U. C.

Proviso: when the front line of any concession was not run in the original survey.

XXXVII. And be it enacted, That in those Townships in Upper-Canada in which the concessions have been surveyed with double fronts, that is, with posts or monuments planted on both sides of the allowances for roads between the concessions, and the lands shall have been described in half lots, the division or side-lines shall be drawn from the posts at both ends to the centre of the concession, and each end of such concession shall be and the same is hereby declared to be the front of its respective half of such concession, and that a straight line joining the extremities of the division or side-lines of any half lot in such concession, drawn as aforesaid, shall be the true boundary of that end of the half lot which has not been bounded in the original survey.

Fronts of concessions in certain other cases; depths of lots, &c. U. C.

XXXVIII. And be it enacted, That in those Townships in Upper-Canada in which each alternate concession line only has been run in the original survey, but with double fronts as aforesaid, the division or side-lines shall be drawn from the posts or monuments on each side of such alternate concession lines to the depth of a concession, that is to the centre of the space contained between such alternate concession lines, if the concessions were intended in the original survey to be of an equal depth, or if they were not so intended, to the proportionate depth intended in the original survey, as shewn on the plan and field-notes thereof of record in the office of the Commissioner of Crown Lands of this Province; and each alternate concession line as aforesaid shall be and the same is hereby declared to be the front of each of the two concessions abutting thereon.

As to concessions in cases where alternate concession lines only have been run. U. C.

XXXIX. And be it enacted, That every Land Surveyor, when and as often as he is employed in Upper-Canada to run any division-line or side-line between lots, or any line required to run parallel to any division-line or side-line in the concession in which the

Rule when a line is to be drawn parallel to a governing line. U. C.

the land to be surveyed lies, shall, if it has not been done before, or if it has been done, but the course cannot at such time be ascertained, determine by astronomical observation, the true course of a straight line between the front and rear ends of the governing boundary line of the concession or section, and shall run such division-line or side-line as aforesaid, truly parallel to such straight line, if so intended in the original survey, or at such angle therewith as is stated in the plan and field notes as aforesaid, which shall be deemed to be the true course of the said governing or boundary line for all the purposes of this Act, although such governing or boundary line as marked in the field be curved or deviate otherwise from a straight course; and the same rule shall be observed, if a line is to be run at any angle with a front line or other line, which may not be straight.

Case where the original post or monument cannot be found, provided for.
U. C.

XL. And be it enacted, That in all cases when any Land Surveyor shall be employed in Upper-Canada to run any side-line or limit between lots, and the original post or monument from which such line should commence cannot be found, he shall in every such case, obtain the best evidence that the nature of the case will admit of, respecting such side-line, post or limit; but if the same cannot be satisfactorily ascertained, then the Surveyor shall measure the true distance between the nearest undisputed posts, limits or monuments, and divide such distance into such number of lots as the same contained in the original survey, assigning to each a breadth proportionate to that intended in such original survey, as shewn on the plan and field-notes thereof of record in the Office of the Commissioner of Crown Lands of this Province; and if any portion of the line in front of the concession in which such lots are situate, or boundary of the Township in which such concessions are situate, intended in the original survey to be straight, shall be obliterated or lost, then the Surveyor shall run a straight line between the two nearest points or places where such line can be clearly and satisfactorily ascertained, and shall plant all such intermediate posts or monuments as he may be required to plant, in the line so ascertained, having due respect to any allowance for a road or roads, common or commons, set out in such original survey; and the limits of each lot so found shall be taken to be and are hereby declared to be, the true limits thereof; any law or usage to the contrary thereof in any wise notwithstanding.

Recital.

As to allowances for road or streets in Towns or Villages laid out by private parties.
U. C.

XLI. And whereas many Towns and Villages in Upper-Canada have been surveyed and laid out by companies and individuals, and by different owners of the lands comprising the same, and lands have been sold therein according to the surveys and plans thereof: Be it therefore enacted, That all allowances for road, street or streets, common or commons, which have been surveyed in such Towns and Villages in Upper-Canada, and laid down on the plans thereof, and upon which lots of land fronting on or adjoining such allowances for road, street or streets, common or commons, have been sold to purchasers, shall be and the same are hereby declared to be public highways, streets and commons; and all lines which have been run, and the courses thereof given in the survey of such Towns and Villages, and laid down on the plans thereof, and all posts or monuments which have been placed or planted in the first survey of such Towns and Villages to designate or define any such allowances for road, street or streets, lot or lots, common or commons, shall be and the same are hereby declared to be the true and unalterable lines and boundaries of all such allowances for such road, street or streets, lot or lots, common or commons, in such Towns and Villages, respectively: Provided always, that no lot or lots of land in such Towns and Villages shall be so laid out as to interfere with, obstruct, shut up, or compose any part of any allowance for road, common or commons, which was surveyed and reserved in the original survey of the Township or Townships

Proviso.

Townships wherein such Towns or Villages are or may be situate: Provided also, that any owner or owners of any such Towns and Villages, or the owner or owners of any original division thereof, shall have lawful right to amend or alter the first survey and plan of any such Town or Village, or any original particular division thereof, provided no lots of land have been sold fronting on or adjoining any street or streets, common or commons where such alteration is required to be made: Provided also, that from and after the passing of this Act, no such private survey shall be valid, unless performed by a duly authorized Surveyor.

Proviso.

Proviso.

XLII. And be it enacted, That the original owner or owners of the lands forming the site of any Town or Village in Upper-Canada, mentioned in the next preceding Section of this Act, or the agent or agents, heirs or other legal representatives of the original owner or owners of any such Town or Village, or any original division thereof, shall, within one year from and after the passing of this Act, make or cause to be made and deposited in the Registry Office of the County wherein such Town or Village is situate, a fair and correct plan or map of such Town or Village, or original division thereof, on a scale of not less than an inch to every four chains, and lay down thereon, or cause to be laid down thereon, all roads, streets, lots and commons within the same, with the courses and width of the roads, streets and commons, and the width and length of all lots, and the courses of all division-lines between the respective lots within the same, together with such information as shall show the lot or lots, concession or concessions, tract or tracts, block or blocks of land of the Township wherein such Town or Village shall be situate, and every such plan or map of every such Town or Village or original division thereof, shall be certified by some Land Surveyor, and also by the original owner or owners thereof, or the legal representative or representatives of such owner or owners, as being a correct plan or map of the same; and every copy of such plan or map obtained from such Registry Office, and certified as correct by the Registrar of such County, shall be taken as evidence of the original plan and survey of such Town or Village in all Courts of Record; and if any such owner or owners of any such Town or Village, or any original division thereof, or their agents, heirs, or other legal representatives, shall refuse or neglect to make or cause to be made, any such plan or map of any such Town or Village, or original division thereof, and deposit the same in a Registry Office of the County wherein the same is situate, within one year from and after the passing of this Act, he, she, or they shall forfeit and pay for such refusal or neglect, the sum of two pounds ten shillings, and a like sum for every year thereafter until such plan or map shall be made and deposited in the Registry Office of the County wherein the same is situate; and the payment of any such penalty or penalties shall not be held to free or discharge such owner or owners, their agents, heirs or other legal representatives, from any such penalties which may not have been paid at the time of such payment; and all such penalties, fines and forfeitures may and shall be collected in the same manner and applied to the same purposes as like penalties, fines and forfeitures are required to be collected and applied under and by authority of the sixth and seventh Sections of the Act passed in the eighth year of Her Majesty's Reign, and intituled, *An Act to declare certain Lands in Upper-Canada liable to Assessment, and to oblige the owners of such Lands to make Returns thereof to the District Treasurer.*

Original owners or their heirs, &c. to deposit plans of Towns, &c. Villages laid out by them.
U. C.

Plan to be certified.

Penalty for neglect.

Effect of payment of any penalty.

Recovery and application of penalties.

8 Vic. c. 58.

XLIII. And be it enacted, That whenever any such plan or map of any such Town or Village, in Upper-Canada, or original division thereof, shall be made and deposited in the Registry Office of the County wherein the same shall be situate, it shall be the

Duty of the Registrar in whose office any such plan

duty

shall be deposited. U. C.

duty of the Registrar of such County to make a record of the same, and enter the day and year on which the same shall be deposited in his office; and for such service the said Registrar shall be entitled to charge the same fees, and no more, than are by law established for making a record of any other document, which is by law required to be entered of record in such office; and such Registrar shall thereupon keep a separate book for the registering of title deeds of lands situate in such Town or Village, in the same manner as is by law required for registering of title deeds for lands situate in Townships.

As to lands in adjoining concessions included in the same grant. U. C.

XLIV. And for avoiding all doubt as to the application of the foregoing enactments in the cases hereinafter mentioned: Be it declared and enacted, That in all cases where any Letters Patent of grant, or other Instrument, has issued for several lots or parcels of land in Upper-Canada, in concessions adjoining each other, the side-lines or limits of the lots or parcels of land therein mentioned and expressed, shall commence at the front angles of such lots or parcels of land respectively, and shall be run as hereinbefore provided, and shall not continue on in a straight line, through several concessions, unless the side-lines or limits, when run as aforesaid, shall intersect the corresponding post or monument in the front of the concession next in rear, that is to say, each such lot or parcel of land shall be surveyed and bounded according to the provisions of this Act, independently of the other lots or parcels mentioned in the same grant or instrument.

Surveyors in U. C. to keep regular journals and field-notes, and furnish copies to parties interested.

XLV. And be it enacted, That each and every Land Surveyor in Upper-Canada shall keep exact and regular journals and field-notes of all his surveys, and file them in the order of time in which the said surveys have been performed, and shall give copies thereof to the parties concerned when so required, for which he shall be allowed the sum of five shillings currency, for each copy, if the number of words therein do not exceed four hundred words, but if the number of words therein exceed four hundred, he shall be allowed six pence additional for every hundred words therein, over and above four hundred words.

Surveyors in U. C. may administer oaths for certain purposes.

XLVI. And be it enacted, That for better ascertaining the original limits of any lot, concession, range, township or tract of land in Upper-Canada, every Land Surveyor acting in that portion of this Province, shall be and he is hereby authorized and required to administer an oath or oaths to each and every person whom he may examine at any time concerning any boundary, post or monument, or any original land mark, line, limit or angle of any township, concession, range, lot or tract of land which such Surveyor may be employed to survey.

Evidence taken by Surveyors in U. C. to be reduced to writing and signed; &c.

XLVII. And be it enacted, That all evidence to be taken by any Surveyor as aforesaid, in Upper-Canada, shall be reduced to writing, and shall be read over to the person giving the same and signed by such person, or if he cannot write, he shall acknowledge the same as correct before two witnesses, who shall sign the same with the Surveyor; and such evidence shall, and any document or plan prepared and sworn to as correct before a Justice of the Peace, by any Surveyor, with reference to any survey by him performed, may be filed and kept in the Registry Office of the County in which the lands to which it relates shall be situate, subject to be produced thereafter in evidence in any Court of Law or Equity within Upper-Canada; and for receiving and filing the same, the Registrar shall be entitled to one shilling and three pence currency; and the expense

expense of filing the same shall be borne by the parties in the same manner as other expenses of the survey.

XLVIII. And be it enacted, That if any person shall, in any part of this Province, wilfully swear or affirm falsely concerning any matter with regard to which an oath may be required under this Act, such person shall be deemed guilty of wilful and corrupt perjury, and being thereof convicted before any competent Court shall be liable to be punished accordingly.

Wilful false swearing under this Act to be perjury.

XLIX. And be it enacted, That if any action of ejectment shall be brought against any person or persons, who, after any line or limit shall have been established according to this Act, in Upper-Canada, shall be found, in consequence of unskilful survey, to have improved on lands not his, her or their own, it shall and may be lawful for the Judge of Assize, before whom such action shall have been tried, to direct the Jury to assess such damages for the defendant or defendants for any loss he, she or they may sustain in consequence of any improvement made before the commencement of such action, and also to assess the value of the land to be recovered; and if a verdict shall be found for the plaintiff or plaintiffs, no Writ of Possession shall issue until such plaintiff or plaintiffs shall have tendered or paid the amount of such damages as aforesaid, or shall have offered to release the said land to the defendant, provided the said defendant should pay or tender to the plaintiff the value of the land so assessed, before the fourth day of the ensuing term.

As to cases in U. C. where from unskilful survey a party may have improved lands afterwards found to belong to his neighbour.

L. And be it enacted, That from and after the passing of this Act, in all cases in which the Jury before whom any action of ejectment shall be tried in Upper-Canada, shall assess damages for the defendant as provided in the next preceding section, for improvements made upon land not his own, in consequence of unskilful survey, and when it shall be satisfactorily made to appear that the defendant does not contest the plaintiff's action for any other purpose than to obtain the value of the improvements made upon the land previous to the alteration and establishing of the lines according to law, it shall and may be lawful for the Judge before whom such action shall be tried, to certify such fact upon the record, and thereupon the defendant shall be entitled to the costs of the defence, in the same manner as if the plaintiff had been non-suited on the trial, or a verdict rendered for the defendant; provided the defendant shall, at the time of entering into the consent rule, have given notice in writing to the lessor or lessors of the plaintiff in such ejectment, or to his Attorney named on the Writ or declaration of the amount claimed for such improvements, on payment of which amount the defendant or person in possession will surrender the possession to such lessor or lessors, and that the said defendant does not intend at the trial to contest the title of the lessor or lessors of the plaintiff; and if such notice shall on the trial be found not to have been given as aforesaid, or if the jury shall assess for the defendant a less amount than that claimed in the notice, or shall find that the defendant has refused to surrender possession of the land claimed, after tender shall have been made of the amount claimed, then in any of such cases the Judge shall not certify, and the defendant shall not be entitled to the costs of the defence, but shall pay costs to the plaintiff; any thing herein contained to the contrary notwithstanding; Provided always, that upon the trial of any such cause no evidence shall be required to be produced in proof of the title of the lessor or lessors of the plaintiff.

Plaintiff not to have costs in such cases from the time defendant offers to give up the lands on receiving the value of his improvements, stating the amount.

Unless the Jury shall assess the improvements at less than the sum demanded.

Proviso: that no proof of Plaintiff's Lessor's title be required.

Interpretation
clause.

LI. And be it enacted, That the words "Governor of this Province" or "Governor" wherever they occur in this Act, shall be understood to include the Lieutenant-Governor or person Administering the Government of this Province; and the words "Upper-Canada" shall be understood to mean all that part of the Province which formerly constituted the Province of Upper-Canada; and the words "Lower-Canada" shall be understood to mean all that part of this Province which formerly constituted the Province of Lower-Canada; and the words "Commissioner of Crown Lands" shall be understood to mean the person discharging the duties of that officer; and words importing the singular number only shall be understood to include several persons, matters or things of the same kind, as well as one person, matter or thing, unless it be otherwise specially provided, or there be something in the subject or context repugnant to or inconsistent with such construction.

Copy of this
Act to be sent
to Surveyors.

LII. And be it enacted, That a copy of this Act shall be sent to every Land Surveyor in this Province, in the same manner as the other Statutes are sent to the parties entitled to receive the same.

SCHEDULE A.

FORM OF A CERTIFICATE OF ADMISSION AS A PROVINCIAL LAND SURVEYOR.

This is to certify to all whom it may concern, that A. B., of _____ hath duly passed in the District of _____ his Examination before the Board of Examiners, and hath been found qualified to fill the office, and perform the duties of a Provincial Land Surveyor in and for Upper (or Lower) Canada, he having complied with all the requirements of the Law in that behalf. Wherefore the said A. B. is admitted to the said Office, and is by Law authorized to practise as a Land Surveyor in Upper (or Lower) Canada.

In witness whereof, We have signed this Certificate at
in the District of _____
the _____ day of _____
and _____

Province of Canada,
one thousand eight hundred

Signature of the President, C. D.
Signature of the Secretary, E. F.

C A P. X X X V I.

An Act to exempt Firemen, after a certain number of years' service as such, from Militia and other duties.

[30th May, 1849.]

Preamble.

WHEREAS it is expedient to encourage the formation of efficient companies of Firemen by rewarding those members who have served regularly for several years: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland,

Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That when any member of any Company of Firemen, which is or may be regularly enrolled in any City, Town or place in which the formation of Companies of Firemen is by law authorized and regulated, has regularly and faithfully served for the space and term of seven consecutive years in the same, the said member shall be entitled to receive, upon producing due proof of his having served seven consecutive years as aforesaid, a certificate from the Clerk of the Peace of the District in which he resides, or the Clerk of the Corporate Body or Board of Police under whose authority the said Company shall have been established, that he has been regularly enrolled and served as a member of the said Fire Company for the space of seven years; which certificate shall exempt the individual named therein from Militia duty in time of peace, from serving as a constable, and from all Parish and Town offices; any law, custom or usage to the contrary notwithstanding: Provided always, that nothing herein contained shall be construed to exempt any such Fireman from serving as a jurymen.

Firemen having served seven years exempted from serving in certain offices.

Proviso.

CAP. XXXVII.

An Act to establish a Court having jurisdiction in Appeals and Criminal Matters, for Lower-Canada.

[30th May, 1849.]

WHEREAS it is expedient to alter and reform the judicial system of Lower-Canada, which hath been found in some respects inadequate to the due administration of justice in that division of the Province, and for that purpose, among other things, to establish therein a Court having jurisdiction in Appeals and Criminal Matters: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the Act passed in the seventh year of Her Majesty's Reign, and intituled, *An Act for the establishment of a better Court of Appeals in Lower-Canada*, shall be and is hereby repealed; but all Acts and provisions of law thereby repealed shall nevertheless remain repealed.

Preamble.

Act 7 Vict. c. 18, repealed.

Proviso.

II. And be it enacted, That there shall be and there is hereby established in and for Lower-Canada a Court of Record to be called "The Court of Queen's Bench," and to consist of four Judges, that is to say, of a Chief Justice and three Puisné Judges, to be appointed from time to time by Her Majesty, Her Heirs or Successors, by Letters Patent under the Great Seal of this Province; but no person shall be appointed to be such Chief Justice or Puisné Judge, unless at the time of his appointment he shall have been a Justice of one of the several Courts of Queen's Bench in Lower-Canada, or a Judge of the Superior Court, or a Circuit Judge, or shall be an Advocate of at least ten years' standing at the Bar of Lower-Canada: Provided always, that the said Court shall be called "The Court of Queen's Bench," or "The Court of King's Bench," according as the Sovereign then reigning shall be a Queen or a King.

Court of Queen's Bench established.

Four Judges.

Who may be appointed a Judge.

Proviso as to the name of the Court.

III.

Act 7 Vict. c. 15, to apply to the Judges of the Court, &c.

III. And be it enacted, That the Act passed in the seventh year of Her Majesty's Reign, and intituled, *An Act to render the Judges of the Courts of King's Bench in that part of this Province heretofore Lower-Canada, independent of the Crown*, shall apply to the Judges of the Court hereby established, as if they had been expressly mentioned in the said Act; and that no such Judge shall sit in the Executive or Legislative Council, or in the Legislative Assembly, or hold any other place of profit under the Crown.

Residence of the said Judges.

IV. And be it enacted, That the Judges of the said Court shall respectively reside either at Quebec or at Montreal, and that at least one of them shall reside at each of the said places.

Appellate jurisdiction of the Court.

V. And be it enacted, That the said Court, and the Judges thereof, shall have, hold and exercise an appellate civil jurisdiction and also the jurisdiction of a Court of Error, within and throughout Lower-Canada, with full power and authority to take cognizance of, hear, try and determine in due course of law, all causes, matters and things appealed or to be appealed, removed or to be removed, by Writ of Appeal or of Error, from all and every the Courts and jurisdictions wherefrom an Appeal or Writ of Error by law lies or is allowed, or hereafter may by law lie or be allowed, unless such Appeal or Writ of Error is expressly directed to be to some other Court.

Certain powers vested in the Court and Judges.

VI. And be it enacted, That all and every the powers, authorities and jurisdictions which immediately before the coming into force of the Act herein first above cited and repealed, were by law required to be exercised, or might be exercised by and were vested in the Provincial Court of Appeals abolished by the said Act, and by or in the several Judges or Members thereof, or any of them, as well in Court as out of Court, in Term as out of Term or in Vacation, shall, in so far as the same may not be inconsistent with the provisions of this Act or of any other Act of this Session, become and be vested in the Court hereby established, and shall and may be as effectually exercised by the said Court, and the Judges thereof severally and respectively, in Court or out of Court, in Term or out of Term, or in Vacation, as the same might have been exercised and enjoyed by the said Provincial Court of Appeals abolished by the said Act, and the several Judges or Members thereof, or any of them, in Court or out of Court, in Term or out of Term or in Vacation, if neither the said Act nor this Act had ever been passed.

Who shall preside in the Court.

VII. And be it enacted, That in the Court hereby established, the Chief Justice thereof shall preside, or if he be absent, then the Puisné Judge thereof, entitled by his commission to precedence in the Court.

Number of Terms. Proviso.

VIII. And be it enacted, That two Terms of the said Court in Appeal and Error shall be held in each year in the City of Quebec, and two in the City of Montreal; but at either of the said Cities, any case in Appeal or Error may be heard or determined, whatever be the place from which the same shall have been appealed or removed.

Times and places of holding the Terms.

IX. And be it enacted, That the said Terms shall be held in the City of Quebec, from the seventh to the eighteenth of January, and from the first to the twelfth of July, both days in each case inclusive; and in the City of Montreal, from the first to the twelfth of March, and from the first to the twelfth of October, both days in each case inclusive; but the Court may, on the last juridical day of any Term, adjourn, for the

Power to adjourn.

purpose

purpose of rendering judgments only, to any day thereafter, on and after which day it may again adjourn for the like purpose; and such adjournment may be to any day during the Criminal Term or subsequent thereto.

X. And be it enacted, That any three Judges of the said Court shall form a Quorum thereof in Appeal and Error, and may hold the Court and exercise all the powers and authority thereof; and any judgment or order concurred in by any majority of a Quorum of the Court shall have the same force and effect as if concurred in by all the Judges present; excepting always, that no judgment appealed from shall be reversed or altered unless such reversal or alteration be concurred in by at least three Judges of the said Court; but any two Judges thereof, another or the others being present, may affirm any such judgment, with costs against the appealing party.

Quorum fixed: its powers.

Provision as to the reversal or affirmation of judgments.

XI. And be it enacted, That no Judge of the said Court shall be disqualified from sitting in any case, by the mere fact of his having been a Judge of the Court whose judgment is in question, while such case was there pending, unless he shall have sat in the case at the rendering of final judgment, or, if the appeal be brought before final judgment from some interlocutory judgment, then unless he shall have sat in the case at the rendering of such interlocutory judgment.

As to judges having been Members of the Court appealed from.

XII. And be it enacted, That there shall be appointed from time to time a Clerk of the said Court, who shall be the Clerk thereof for all matters depending upon its jurisdiction as a Court of Appeal and Error, and shall be known as the "Clerk of Appeals;" and the said Clerk shall reside either in the City of Quebec or in the City of Montreal, and shall by an Instrument under his hand and seal appoint a Deputy who shall reside in that one of the said Cities in which the said Clerk shall not himself reside: and such Deputy is hereby empowered to perform any duty of the Clerk of Appeals, and shall continue to perform all the duties of that office, in case of the death, dismissal, suspension from office or resignation of the said Clerk, until the appointment of his successor in the said office; and the Instrument by which such Deputy Clerk shall have been appointed shall be entered at full length in the Register of the Court; but it shall be at all times lawful for the said Clerk to remove such Deputy and appoint another.

Clerk of Appeals appointed.

Where to reside.
May appoint a Deputy.
Powers and duties of such Deputy, &c.

XIII. And be it enacted, That no Clerk or Deputy Clerk of Appeals shall, while he remains such, practise as an Advocate, Proctor, Solicitor, Attorney or Counsel in Lower-Canada.

Clerk or Deputy not to practise as attorney, &c.

XIV. And be it enacted, That all Writs and Process to be issued from and out of the said Court in the exercise of its jurisdiction as a Court of Appeal and Error, shall be distinguished as being so issued, and shall run in the name of Her Majesty, Her Heirs or Successors, and shall be sealed with the Seal of the said Court, and signed by the Clerk thereof or his Deputy, whose duty it shall be to make out and prepare the same; and they shall not be tested in the name of any Judge, but the words "in witness whereof we have caused the Seal of Our said Court to be hereunto affixed," shall be instead of such *teste*; Provided always, that no such Writ or Process shall be deemed void or voidable by reason of its having a wrong seal or no seal thereon, and every such Writ and Process may be either in the English or in the French language; any law, usage or custom to the contrary notwithstanding.

Form of Writs and Process.

Proviso as to the Seal.
Language.

Judges *ad hoc*
may be ap-
pointed in
certain cases.

XV. And be it enacted, That whenever two or more of the Judges of the said Court shall be lawfully recused or disqualified, or rendered incompetent, either by reason of interest or otherwise to sit in the said Court in any cause cognizable thereby, or shall be suspended from office, or absent from the Province with the permission of the Governor, so as to leave the said Court without a *Quorum* to take cognizance of such cause, it shall be the duty of the Clerk of Appeals, when duly required so to do in writing by any of the parties, to report the fact under his Hand, and the Seal of the Court, to the Governor, who may thereupon, by an Instrument under his Hand and Seal, appoint *ad hoc* a like number of persons to sit in the said Court in the place and stead of the Judges so recused, or disqualified, or rendered incompetent, or suspended, or absent, for the purpose of hearing and determining such cause as aforesaid, and of doing all such judicial Acts therein as may be required before or after the determination thereof; taking such persons in his discretion either from among the Judges of the Superior Court, or the Circuit Judges, or from among the Members of the Bar of Lower-Canada of at least ten years' standing: and the persons so appointed to act as Judges *ad hoc*, shall, when acting as such, have the same powers and authority in and with respect to the said cause, as the Judges so recused, disqualified, or rendered incompetent, or suspended, or absent, would otherwise have had; and in case they or any of them shall die, resign, or be recused, disqualified or otherwise rendered incompetent, so as to leave the Court without a *Quorum* to take cognizance of the cause with reference to which they were appointed, other Judges *ad hoc* may be appointed in their stead in like manner and with like effect.

Who may be
appointed.
Powers of
Judges *ad
hoc*.

Others may be
appointed in
certain cases.

What laws
shall apply to
the Court.

XVI. And be it enacted, That all and every the Laws, which immediately before the coming into force of the Act hereinbefore cited and repealed, were in force in Lower-Canada, to govern and direct the proceedings and practice of the Provincial Court of Appeals abolished by the said Act, in so far as they are not repealed or varied by this Act or by any other Act of this Session, or inconsistent with the provisions of such Act or of this Act, shall continue to be in force and shall apply to and be observed in and by the Court hereby established, in the same manner as they would have applied to and been observed in and by the said Provincial Court of Appeals, if neither the said Act nor this Act had been passed.

The Court to
make a Tariff
of fees and
Rules of
practice
within one
year;

And may re-
peal or alter
them.

Proviso.

What Tariff
and Rules
shall apply
until others are
so made.

XVII. And be it enacted, That the said Court, shall and may (and it shall be the duty of the Court so to do within one year from the time when this Act shall come fully into effect,) make and establish a Tariff of Fees for the Officers of the said Court and the Counsel, Advocates and Attornies practising therein, and also such Rules of Practice as shall be requisite for regulating the due conduct of the causes, matters and business before the said Court or the Judges thereof, or any of them, and in Term or out of Term, and all Process and Proceedings therein or thereunto relating; which Tariff of Fees and Rules of Practice the said Court shall have full power and authority to repeal, alter and amend from time to time: Provided always, that no such Rule of Practice shall be contrary to or inconsistent with this Act, or any other Act or Law in force in Lower-Canada, otherwise the same shall be null and void: And provided also, that until such Tariff of Fees and Rules of Practice shall be made and duly established by the said Court, the Tariff of Fees and Rules of Practice in force immediately before the coming of this Act into full effect, with regard to the "Court of Appeals for Lower-Canada," established by the Act hereinbefore cited and repealed, shall continue to be in force and shall apply to the Court hereby established and the proceedings therein,

therein, subject to such amendments and alterations as shall be from time to time made therein by the said Court.

XVIII. And be it enacted, That all final judgments rendered by the said Court shall contain a summary statement of the points of fact and law, and the reasons upon which such judgments shall be founded, and the names of the Judges who shall have concurred therein or entered their dissent therefrom.

Final Judgments to be *motivés*, &c.

XIX. And be it enacted, That an appeal shall lie from the judgments of the said Court, to Her Majesty, Her Heirs and Successors, in Her or their Privy Council in that part of the United Kingdom of Great Britain and Ireland called England, in all, each and every of the cases in and with respect to which an appeal, immediately before the commencement of the Act hereinbefore cited and repealed, would lie from the judgments of the Provincial Court of Appeals thereby abolished, to Her Majesty in Her Privy Council, upon the terms and conditions, and in the manner and form, and under and subject to the restrictions, rules and regulations established with regard to Appeals from the said Provincial Court of Appeals to Her Majesty in Her Privy Council.

In what cases and on what conditions an appeal shall lie to the Queen in Council.

XX. And be it enacted, That all and every the Records, Registers, Documents and proceedings of the said Provincial Court of Appeals and of the Court of Appeals for Lower-Canada, shall forthwith after this Act shall come fully into effect, be transmitted into and make part of the Records, Registers, Documents and proceedings of the Court hereby established.

Certain records, &c., to be transmitted into the Court.

XXI. And be it enacted, That no Judgments, Order, Rule or Act of the said Provincial Court of Appeals, or of the said Court of Appeals for Lower-Canada, legally pronounced, given, had or done before this Act shall come fully into effect, shall be hereby avoided, but shall remain in full force and virtue as if this Act had not been passed; nor shall any Cause, Appeal, Writ of Error or Proceeding depending in the said Court of Appeals for Lower-Canada be abated, discontinued or annulled, but the same shall in their then present condition, be respectively transferred to and subsist and depend in the Court hereby established, to all intents and purposes as if they had respectively been commenced, brought or recorded in the said last mentioned Court, which shall have full power and authority to proceed accordingly in and upon all such Causes, Appeals, Writs of Error and Proceedings, to judgment and execution, and to make such Rules and Orders respecting the same as the said Court of Appeals for Lower-Canada might but for this Act have made, or as the Court hereby established, is hereby empowered to make in Causes, Appeals, Writs of Error and Proceedings commenced in and depending before the said last mentioned Court.

Judgments, &c. of former Court not to be avoided.

Proceedings in former Court to be continued in the Court hereby established.

XXII. And be it enacted, That every Writ, Rule, Process or Order, which shall have been made returnable into the said Court of Appeals for Lower-Canada, or by or under which any thing shall have been ordered or ought to be done in or before the said Court, on any day subsequent to the time when this Act shall come fully into effect, shall be returnable into the Court hereby established, or the thing so required to be done shall be done in or before the same, (as the case may be,) on that juridical day in Term which shall be next after the day on which such Writ, Rule, Process or Order shall have been made returnable, or on which such thing shall have been ordered to be done: Provided always, that after the passing of this Act, but before it shall

As to the return of Process issued before this Act shall be in force.

Proviso: the present Court come

may make process returnable before the Court of Q. B. &c.

come fully into effect, it shall be lawful for the said Court of Appeals for Lower-Canada, to make any Writ, Rule or Process returnable into the Court hereby established, or to order any thing to be done in or before the same, or before any Judge or Officer thereof by his name of office, on any day after this Act shall come fully into effect, in the same manner as if the said Court were one and the same with the said Court of Appeals for Lower-Canada, and the name and the times of holding the terms thereof were alone altered.

Certain sections to apply to the appeal side of the Court only.

XXIII. And be it enacted, That the eighteen next preceding Sections of this Act, shall apply to the Court hereby established in the exercise of its jurisdiction and functions as a Court of Appeal and Error only, or the "Appeal Side" of the said Court.

The Court to have original criminal jurisdiction in Lower-Canada.

XXIV. And whereas by an Act of this Session, to come fully into effect at the same time with this Act, the several Courts of Queen's Bench in Lower-Canada will be abolished: Be it therefore enacted, That the Court of Queen's Bench hereby established, and the Judges thereof, shall have original criminal jurisdiction throughout Lower-Canada and in the several Districts thereof, in like manner as the several Courts of Queen's Bench in Lower-Canada now have and may exercise original criminal jurisdiction within their respective Districts, with full power and authority to take cognizance of, hear, try and determine, in due course of law, all pleas of the Crown, treasons, murders, felonies and misdemeanors, crimes and criminal offences whatsoever, heretofore had, done or committed, or hereafter to be had, done or committed, or whereof cognizance may lawfully be taken within Lower-Canada, save and except such as are cognizable only by the jurisdiction of the Admiralty.

Exception.

Court and Judges to have the powers of the present Court and Judges of Q. B. in criminal matters.

XXV. And be it enacted, That all and every the powers, authorities and jurisdictions in pleas of the Crown, crimes and criminal offences, of what kind or nature soever, which by law are required to be exercised, and may or might be exercised by and are vested in the several Courts of Queen's Bench in the several Districts of Lower-Canada, as now constituted, or any or either of them, and by the several Justices of the said Courts or any or either of them, as well in term as out of term, or in vacation, shall from and after the time when this Act shall come fully into effect, become and be vested in the Court hereby established, and shall and may be as effectually exercised by the said Court, and the Judges thereof severally and respectively, as the same may now be exercised and enjoyed by the said several Courts of Queen's Bench, or any or either of them, and the several Justices thereof, or any or either of them, excepting always such powers, authorities and jurisdictions as may, by any Act of this Session, be vested in the Superior Court for Lower-Canada; and provided always, that no cause, matter or thing shall be removed into the Court hereby established, from any other Court or jurisdiction, except cases pending before any Court of General or Quarter Sessions of the Peace, in which a Trial by Jury is by law allowed, which cases may be removed into the Court hereby established, by *certiorari*, in the same manner (except in so far as it may be otherwise provided by any Act of this Session) as they may now be removed into the proper Court of Queen's Bench: and provided also, that nothing in this Act shall be construed to interfere with the exercise of the powers, authorities and jurisdiction in criminal matters vested by an Act of this Session in the Superior Court, when sitting in the District of Gaspé.

Exception.

Proviso as to the removal of cases from other Courts.

Proviso as to the District of Gaspé.

XXVI. And be it enacted, That all and every the laws of Lower-Canada, which immediately before the time when this Act shall come fully into effect, shall be in force to govern and direct the proceedings and practice of the several Courts of Queen's Bench in Lower-Canada, in the exercise of their powers, authorities and jurisdictions in pleas of the Crown, crimes and criminal offences, or the Sheriffs or other Officers of, or the Jurors, Witnesses or other parties, attending the same, and which are not repealed or varied by this Act, or by any other Act of this Session, or inconsistent with the provisions of such Act or of this Act, shall continue to be in force and shall apply to and be observed in and by the Court hereby established, and the Sheriffs or other Officers of, and Jurors attending the same, in the same manner as they would have applied to, and been observed in and by the said several Courts of Queen's Bench, and the Sheriffs or other Officers thereof, or the Jurors, Witnesses or other parties attending the same, if this Act had not been passed.

What laws shall apply to the Court in the Crown side.

XXVII. And be it enacted, That the Judges of the Court hereby established shall severally and respectively be, and they are hereby appointed to be, Justices and Conservators of the Peace and Coroners in and throughout Lower-Canada.

Judges to be Justices of the Peace, &c.

XXVIII. And be it enacted, That all Writs and Process of the said Court, issued in the exercise of its jurisdiction in criminal matters, shall be distinguished as being so issued, and shall be signed by the Clerk of the Crown in and for the District in which they shall issue, and shall run and be sealed and attested in the manner hereinbefore provided with regard to the Writs and Process thereof issued in the exercise of its jurisdiction as a Court of Appeal and Error.

Form of Writs and Process.

XXIX. And be it enacted, That there shall be appointed, from time to time, a Clerk of the Crown, in and for each of the Districts where terms or sittings of the said Court shall be held for the exercise of its jurisdiction in criminal matters, who shall be the Clerk of the said Court, in and for such District, with regard to all matters dependent upon its jurisdiction in such matters; and each such Clerk of the Crown, may, by an Instrument under his hand and seal, appoint a Deputy, who is hereby empowered to perform any duty of such Clerk of the Crown, and shall continue to perform all the duties of that office, in case of the death, dismissal, suspension from office or resignation of such Clerk of the Crown, until the appointment of his successor in the said office; and the Instrument by which such Deputy Clerk is appointed, shall be entered at full length in the Register of the Court; but it shall be at all times lawful for such Clerk of the Crown to remove such Deputy, and to appoint another.

A Clerk of the Crown to be appointed in each District.

A Deputy may be appointed; his powers.

May be removed.

XXX. And be it enacted, That nothing herein contained shall prevent any Prothonotary of the Superior Court, or any Clerk of the Circuit Court, from being appointed Clerk of the Crown, in and for any District; but no Clerk of the Crown shall, while he remains such, practise as an Advocate, Proctor, Solicitor, Attorney or Counsel, in Lower-Canada.

Prothonotary of Superior Court may be Clerk of the Crown.

XXXI. And be it enacted, That two terms or sittings of the Court hereby established, in the exercise of its jurisdiction in criminal matters, shall be held in each year, in and for each and every of the Districts into which Lower-Canada is now or may be hereafter divided, other than the District of Gaspé; except that in the District of Ottawa and the District of Kamouraska respectively, no such term shall be held until the Governor shall

Two terms to be held yearly in each District, except Gaspé. Exception as to Ottawa.

and Kamouraska.

Proviso as to cases pending when any new District is proclaimed.

shall by proclamation have declared, that a proper Gaol and Court House have been erected in such District, until which time the District of Ottawa shall for all the purposes of this Act, be held to form part of the District of Montreal, and the District of Kamouraska to form part of the District of Quebec; and provided also, that notwithstanding any such proclamation as aforesaid, all cases, proceedings, matters and things theretofore commenced, or pending before the said Court, or where the offender shall, before the said proclamation, have been committed for trial to the Gaol at Quebec or Montreal, or bound to appear at some Term of the Court to be held at either of the said Cities, shall be proceeded with, heard, tried and determined by the said Court, sitting at Quebec or at Montreal, (as the case may be,) as if the said proclamation had not issued; but all other cases arising in the new District, shall be heard, tried and determined therein.

Quorum of the Court, and powers of Quorum.

XXXII. And be it enacted, That such Terms or Sittings of the said Court in the exercise of its criminal jurisdiction, shall respectively be held by any one or more Judges of the said Court; and any one or more of them shall, at such Terms or Sittings, form a quorum, and may exercise all the powers and jurisdiction of the Court.

Judges of the Superior Court may hold the Court of Q. B. for criminal matters in certain cases.

XXXIII. And be it enacted, That if at any time during any such Term or Sitting of the said Court, there shall not be a Judge thereof present and able to hold the same, any Judge or Judges of the Superior Court, may sit in and hold the Court hereby established, as if he was or they were a Judge or Judges thereof; but it shall always be the duty of the Judges of the said Court, or some of them, to hold the said Court, unless prevented by circumstances beyond their control, and it shall not be the duty of any of the Judges of the Superior Court so to do, except in the case above provided for.

Times and places of holding the Terms.

XXXIV. And be it enacted, That the said Terms or Sittings of the Court hereby established, in the exercise of its jurisdiction in criminal matters, as aforesaid, shall respectively commence:

At Quebec
At Montreal.
At Three-Rivers.
At Sherbrooke.
At Aylmer.

At Quebec, for the District of Quebec, on the twentieth of January and on the fourteenth of July: at Montreal, for the District of Montreal, on the fourteenth of March and on the fourteenth of October: at Three-Rivers, for the District of Three-Rivers, on the second of February and on the eleventh of September: at Sherbrooke, for the District of Saint Francis, on the twelfth of February and on the first of September: at Aylmer, for the District of Ottawa, on such two days, respectively, in each year as the Governor shall for that purpose appoint in and by his proclamation declaring that a proper Gaol and Court House have been erected and completed in the said District: at Kamouraska, for the District of Kamouraska, on such two days, respectively, in each year as the Governor shall for that purpose appoint in and by his proclamation declaring that a proper Gaol and Court House have been erected and completed in the said District: and if any of the said days be a Sunday or Holy-day, the Term or Sitting shall commence on the next juridical day thereafter.

At Kamouraska.

As to Holy-days.

Term to continue until the business be closed.

XXXV. And be it enacted, That the said Terms or Sittings shall respectively continue and be holden until the said Court shall declare the same closed, which shall not be done until the Court shall be of opinion that there remains no trial, matter or proceeding to be had or done by or before it, which cannot more conveniently remain over until the then next Term; and the Court shall have full power, if it be deemed advisable, or if

if the attendance of the Judge or Judges holding the same, shall be required at any other place or Court, to adjourn from day to day, or to any day before the first day of the then next Term.

Court may adjourn to any day before the next term.

XXXVI. And be it enacted, That the Governor may, at any time and from time to time, by Proclamation, direct an extraordinary Term of the said Court to be held in and for any District, and to commence on the day to be named for that purpose in such Proclamation, which shall be issued at least thirty days before such day; and to such extraordinary Term all the provisions of this Act and of the law, with regard to the ordinary Terms of the said Court, shall apply.

Extraordinary terms may be held under Proclamation.

XXXVII. And be it enacted, That all and every the Records, Registers, muniments and judicial and other proceedings and documents of the several Courts of Queen's Bench in and for the several Districts of Lower-Canada, except the District of Gaspé, in criminal matters, and appertaining to the original Criminal jurisdiction of the said Courts, or to any case removed thereto from any Court of Quarter Sessions or General Sessions of the Peace, and in which a trial by Jury is by law allowed, shall forthwith after the time when this Act shall come fully into effect, be transmitted into and make part of the Records, Registers, muniments, judicial and other proceedings and documents of the Court hereby established, in the Districts and at the places in and at which the said Courts of Queen's Bench are now respectively established and held; that is to say, the Records, Registers, muniments, judicial and other proceedings of the present Court of Queen's Bench for the District of Montreal, shall be transmitted into the Court hereby established, and shall be kept in the Office of the Clerk of the Crown for the said District, at the City of Montreal; and the Records, Registers, muniments, judicial and other proceedings of the present Court of Queen's Bench for the District of Quebec, shall be transmitted into the Court hereby established, and shall be kept in the Office of the Clerk of the Crown for the said District, at the City of Quebec; and the Records, Registers, muniments, and judicial or other proceedings of the present Court of Queen's Bench for the District of Three-Rivers, shall be transmitted into the Court hereby established, and shall be kept in the Office of the Clerk of the Crown for the said District, at the Town of Three-Rivers; and the Records, Registers, muniments, judicial or other proceedings of the present Court of Queen's Bench for the District of Saint Francis, shall be transmitted into the Court hereby established, and shall be kept in the Office of the Clerk of the Crown for the said District, at the Town of Sherbrooke.

Transmission of Records, &c. from former Courts.

To what places such Records, &c., shall be respectively transmitted.

XXXVIII. And be it enacted, That no Judgment, Order, Rule, or Act of the said Courts of Queen's Bench in the several Districts of Lower-Canada, respectively, in criminal matters, and appertaining to the criminal jurisdiction of the said Courts, legally pronounced, given, had or done before the time when this Act shall come fully into effect, shall be hereby avoided, but shall remain in full force and effect; nor shall any indictment, information, suit or proceeding depending in the said Courts of Queen's Bench respectively, be abated, discontinued or annulled, but the same shall be transferred in their then present condition respectively, to, and shall subsist and depend in the Court hereby established on the Crown side thereof, severally and respectively to all intents and purposes as if they had been respectively commenced, brought, found, presented or recorded in the said Court; and the said Court shall have full power and authority to proceed accordingly on and in all such indictments, informations,

Judgments, &c., of former courts not to be avoided.

Suits and proceedings to be continued in the Court hereby established.

informations, suits and proceedings, to judgment and execution, and to make such rules and orders respecting the same, as the said Courts of Queen's Bench, might have made, or as the Court hereby established is hereby empowered to make in cases, suits and proceedings commenced in or depending before the said Court.

When Process issued out of former Courts shall be returnable after this Act shall be in force.

XXXIX. And be it enacted, That every Writ or Process, Recognizance or other Document, which is or shall be returnable into any of the several Courts of Queen's Bench as now constituted, (except as aforesaid the Court of Queen's Bench for the District of Gaspé) in the exercise of their jurisdiction in criminal matters, or by which any party shall be bound to appear or attend at any such Court of Queen's Bench, or any thing shall have been ordered to be done in or before any such Court, in the exercise of its jurisdiction aforesaid, on any day subsequent to the time when this Act shall come fully into effect, shall be returned into the Court hereby established, on the Crown side, and shall be held and considered to be returnable, or such party shall be held to appear or attend, or such thing shall be done, in or before the said Court, on that juridical day in term, which shall be next after the day on which such Writ, Process, Recognizance or Document shall have been made returnable, or on which such party shall have been bound to appear or attend, or on which such thing shall have been ordered to be done : Provided always, that after the passing of this Act, but before it shall come fully into effect, it shall be lawful for the said several Courts of Queen's Bench respectively, to make any Writ or Process returnable into the Court hereby established, or to order any thing to be done in or before the same, or any Judge or Officer thereof by his name of office, or for any Judge or Justice of the Peace, to bind over any party to appear before the said Court, on any day after this Act shall come fully into effect, in the same manner as if the said Court were, as regards its jurisdiction in criminal matters, one and the same with the said several Courts of Queen's Bench, respectively, and the times of holding the terms of such Courts of Queen's Bench were alone altered.

Proviso : the present Courts may make Process, &c., returnable before the Court hereby established.

Certain sections to apply only to the Crown side of the Court.

XL. And be it enacted, That the sixteen next preceding sections of this Act shall apply to the Court hereby established in the exercise of its functions as a Court of Criminal Jurisdiction only, or the "Crown Side" of the said Court.

Habeas Corpus powers vested in the Court and Judges.

XLI. And be it enacted, That all and every the powers and authorities which immediately before the time when this Act shall come fully into effect, shall be by law vested in the several Courts of Queen's Bench in the several Districts of Lower-Canada, and in the Chief Justices and the Justices thereof respectively, relating in any manner or way to the Writ of Habeas Corpus, as well in criminal as in civil cases, and to the awarding or issuing or return thereof, and to the hearing and determining in due course of law, of any question, issue or matter thence arising or incident thereto, shall be and the same are hereby vested in the said Court hereby established (concurrently with the other Courts and Judges in whom like powers may by any Act of this Session be vested) and in each and every of the Judges of the said Court respectively, as well in term as in vacation ; which said Judges shall respectively be subject and liable to the same penalty, for denying in vacation time any Writ or Writs of Habeas Corpus, as is by law provided for the denial of a Writ of Habeas Corpus in vacation time by any Judge or Justice ; and the said penalty shall be recovered from the Judges of the Court hereby established, respectively, in the like cases and circumstances, and in the same manner as is by law provided, with respect to any Judge or Justice.

Penalty for refusing the Writ in vacation.

XLII. And be it enacted, That nothing in this Act shall be construed to prevent the issuing of any General or Special Commission of Oyer and Terminer or of General Gaol Delivery, for any District, City or place, or to derogate from, abridge or affect any right or prerogative of the Crown not herein expressly mentioned.

Rights of the Crown saved.

XLIII. And be it enacted, That all Acts or Enactments or Provisions of Law inconsistent with this Act shall be and are hereby repealed.

Repeal of former Acts, &c. inconsistent herewith.

XLIV. And be it enacted, That the Interpretation Act shall apply to this Act.

Interpretation Act to apply.

XLV. And be it enacted, That the foregoing sections of this Act shall come into force and effect, upon, from and after the day which shall be appointed for that purpose in any Proclamation to be issued by the Governor of this Province, by and with the advice of the Executive Council thereof, and not before, except in so far as it may be herein otherwise provided: and upon, from and after the said day, any Judge or Officer then appointed under this Act, shall and may perform all or any of the duties or functions of his office although the Court hereby established may not have met or sat.

Commencement of this Act, &c.

C A P. XXXVIII.

An Act to amend the Laws relative to the Courts of Original Civil Jurisdiction in Lower-Canada.

[30th May, 1849.]

WHEREAS it hath become expedient to reform the Judicature of Lower-Canada, and by an Act of this present Session, provision hath been made for the establishment of a Court of Appellate and Criminal Jurisdiction for that part of this Province, and it is necessary to remodel the several Courts of Original Civil Jurisdiction: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-write the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the Act passed in the seventh year of Her Majesty's Reign, and intituled, *An Act to repeal certain Acts and Ordinances therein mentioned, and to make better provision for the Administration of Justice in Lower-Canada*,—and the Act passed in the ninth year of Her Majesty's Reign, and intituled, *An Act to amend the Law relative to the Administration of Justice in Lower-Canada*,—and all other Acts and Provisions of Law inconsistent with this Act, shall be and are hereby repealed: except that neither the repeal of the Acts above cited and repealed, nor any thing herein contained, shall extend to abolish the Circuit Court at any place or the office of any Circuit Judge, except as it is hereinafter provided; And provided always, that the repeal of the said Acts shall not be construed to revive any Act or Provision of Law thereby repealed, all which shall nevertheless remain repealed, and the Courts and Jurisdictions thereby abolished shall remain abolished.

Preamble.

Acts 7 V. c. 16, and 9 V. c. 29, repealed.

General repeal/Exception.

Proviso: Laws repealed by the Acts hereby repealed not to revive.

II. And be it enacted, That the several Courts of Queen's Bench or King's Bench in and for the several Districts in Lower-Canada, and the offices of Resident Judge of the

Present Courts of Queen's

Bench, &c., abolished. the District of Three-Rivers, and of Provincial Judge of the District of St. Francis, shall be and the said Courts and Offices are hereby abolished.

Superior Court established. III. And be it enacted, That there shall be and there is hereby established, in and for Lower-Canada, a Court of Record of Civil Jurisdiction for Lower-Canada, to be called the "Superior Court;" which Court shall consist of ten Judges, that is to say, of a Chief Justice and nine Puisné Judges, to be appointed from time to time by Her Majesty, Her Heirs and Successors, by Letters Patent under the Great Seal of this Province; and four of the said Judges shall reside at the City of Montreal, four at the City of Quebec, one in the Town of Three-Rivers, and one in the Town of Sherbrooke.

How constituted.

Residence of the Judges.

Who may be appointed a Judge.

IV. And be it enacted, That no person shall be appointed a Judge of the said Superior Court, unless he shall immediately before his appointment be a Justice of one of the said several Courts of Queen's Bench, or a Circuit or District Judge, or an Advocate of at least ten years' standing at the Bar of Lower-Canada.

Provisions of the Judges' independence Act 7 V. c. 15, to apply.

V. And be it enacted, That all the provisions of the Act passed in the seventh year of Her Majesty's Reign, and intituled, *An Act to render the Judges of the Courts of King's Bench, in that part of this Province heretofore Lower-Canada, independent of the Crown*, shall apply to the Judges of the said Superior Court as fully as if they had been specially named therein; and that no such Judge shall sit in the Executive Council or in the Legislative Council, or in the Legislative Assembly, or hold any other place of profit under the Crown, so long as he shall be such Judge.

General jurisdiction of the S. Court.

VI. And be it enacted, That the said Superior Court shall have Original Civil Jurisdiction throughout Lower-Canada, with full power and authority to take cognizance of, hear, try and determine in the first instance and in due course of law, all civil pleas, causes and matters whatsoever, as well those in which the Crown may be a party, as all others, excepting those purely of Admiralty jurisdiction, which shall be and remain subject to that jurisdiction, and excepting also those over which original jurisdiction is hereinafter given to the Circuit Court.

Exception.

Superintending and reforming power over other Courts, &c.

VII. And be it enacted, That excepting the Court of Queen's Bench, established as aforesaid, by an Act of this Session, all Courts and Magistrates, and all other persons, and bodies politic and corporate within Lower-Canada, shall be subject to the superintending and reforming power, order and control of the said Superior Court and of the Judges thereof, in such sort, manner and form as Courts and Magistrates and other persons, and bodies politic and corporate, in Lower-Canada, shall immediately before the time when this Act shall come fully into effect, be subject to the superintending and reforming power, order and control of the several Courts of Queen's Bench, and of the Judges thereof, in term and in vacation; and such superintending and reforming power and control are hereby vested in and assigned to the said Superior Court, and the Judges thereof: and all appeals and evocations from any inferior Court or jurisdiction which immediately before the said time shall lie to any one of the said several Courts of Queen's Bench, or the Judges thereof, shall thereafter lie to the said Superior Court, or the Judges thereof, unless it be otherwise provided by this Act or by some Act of this Session.

As to appeals and evocations to former Courts of Q. B.

VIII. And be it enacted, That all and every the powers, authorities and jurisdictions in pleas, causes, matters and things of a civil and not criminal nature, of what kind soever, which immediately before the time when this Act shall come fully into effect, shall be by law vested in and required to be exercised by the several Courts of Queen's Bench in the several Districts of Lower-Canada as then constituted, or any or either of them, and in and by the several Justices of the said Courts, or any or either of them, as well in term as in vacation, (excepting always such of the said powers, authorities and jurisdictions as shall by this Act or any other Act of this Session be vested in any other Court), shall from and after the time when this Act shall come fully into effect, become and be vested in the said Superior Court hereby established, and shall and may be as fully and effectually exercised by the said Superior Court, and the Judges thereof severally and respectively, as well in term as in vacation, as the same might have been exercised and enjoyed by the said Courts of Queen's Bench, and any or either of them, and the several Justices thereof or any or either of them, in term or in vacation, if this Act had not been passed.

Powers of Q. B. in civil matters transferred to S. Court.

Exception.

IX. And be it enacted, That all and singular the laws which shall be in force in Lower-Canada immediately before the time when this Act shall come fully into effect, to govern and direct the proceedings and practice of the several Courts of Queen's Bench in the several Districts of Lower-Canada, in the exercise of those jurisdictions and powers of the said Courts which are hereby transferred to and vested in the Superior Court, and which are not repealed or varied by this Act, or inconsistent with the provisions thereof, shall continue to be in force and be observed in and by the said Superior Court, in the exercise of the jurisdictions and powers aforesaid.

What laws shall govern the exercise of the powers of the Court.

X. And be it enacted, That for the purposes of the administration of Justice, Lower-Canada shall continue to be divided, as it now is, into the Districts of Quebec, Montreal, Three-Rivers, St. Francis, and Gaspé, the boundaries whereof shall remain as they now are: except that the Counties of Kamouraska and Rimouski shall together form a new District by the name of the *District of Kamouraska*, upon, from and after the day to be appointed for that purpose in any Proclamation to be issued by the Governor, appointing such day, and declaring that a proper Gaol and Court House for the said new District have been erected at Kamouraska, in the said District: And that the County of Ottawa shall form a new District, by the name of the *District of Ottawa*, upon, from and after the day to be appointed for that purpose in any Proclamation to be issued by the Governor appointing such day, and declaring that a proper Gaol and Court House for the said District have been erected at Aylmer, in the said District, and the tract of land forming such new District shall thereafter cease to form part of the District of Quebec or of Montreal, as the case may be.

Districts to remain as they now are.

Exception.

Two new Districts to be formed when certain conditions are complied with.

District of Kamouraska.

District of Ottawa.

XI. Provided always, and be it enacted, That notwithstanding any such Proclamation as aforesaid, all suits, actions and proceedings in or before the said Superior Court, or any other Court, civil or criminal, commenced before the day appointed in such Proclamation as that upon, from and after which either of the said new Districts is to be established, shall, as shall also all matters and proceedings incident or relative thereto, or dependent thereon, be continued, completed, dealt with and considered as if the new District established by such Proclamation had not been detached from the District of Quebec or of Montreal, as the case may be.

Proviso as to suits, &c., pending when either of the new Districts is formed.

XII.

Sheriffs and Prothonotaries to be appointed in the new Districts when formed.

Proviso: such Officers need not be re-appointed for the old Districts by reason of this Act.

But they shall be the Officers of the S. Court generally, and not merely of the Judges sitting in one District.

Prothonotaries may appoint Deputies.

Certain other Officers to be appointed in the new Districts.

Sessions of the Peace to be held therein.

Who shall hold such sessions.

Circuit Judges when in Gaspé, to be Judges of S. Court, for certain purposes.

And to have certain powers, out of Term in Kamouraska and Ottawa.

Proviso as to the effect out of such Districts of their judicial acts therein.

XII. And be it enacted, That after the issuing of the said Proclamation with regard to either of the said new Districts, a Sheriff may be appointed for such new District, and shall have in and with regard to the same, like powers and duties, and shall be subject to like liabilities, with the Sheriff of any other District; and a Prothonotary of the Superior Court may be appointed in and for such new District, and shall have in and with regard to the same like powers and duties, and shall be subject to like liabilities with the Prothonotary of the said Court in any other District: but nothing in this Act contained shall make it necessary that a Sheriff or a Prothonotary of the said Court be appointed in any one of the present Districts, merely by reason of the passing of this Act, but the Sheriff of each such District shall remain the Sheriff thereof, and the Prothonotary of the present Court of Queen's Bench therein shall be and remain and be called the Prothonotary of the Superior Court for such District, without any new appointment, until such Sheriff or Prothonotary shall die, resign or be removed from office, in which case a successor shall be appointed; but each such Sheriff or Prothonotary shall be the Officer of the Superior Court generally, and not merely of the Judges sitting or acting in his District, and shall accordingly obey the lawful orders of the said Court and of the Judges thereof in whatever District such orders be made, provided any thing be required to be done under it by such Sheriff or Prothonotary in his District: And any Prothonotary of the Superior Court whether appointed before or after this Act shall come into effect, may from time to time appoint by an Instrument under his hand and seal, a Deputy who shall have power to perform all the duties of the office in case of the absence or sickness of such Prothonotary, and such Instrument shall be entered at full length in the Register of the Court: And in and for each new District when so constituted by proclamation, a Clerk of the Crown, Clerk of the Peace, Coroner, Gaoler, and other proper Officers shall be appointed, as in the other Districts, and shall have like powers, duties and liabilities with Officers of the same name in other Districts: And General and Special Sessions of the Peace shall be held therein, the said General Sessions being held at such times as shall be appointed by the Governor, in and by the Proclamation aforesaid, in like manner and with like powers and duties as in other Districts; and the Justices of the Peace for the District from which the new District shall be detached then resident in such new District, shall, without any other Commission, be Justices of the Peace for such new District, but shall cease to be so for the remainder of the District from which it shall be detached.

XIII. And be it enacted, That each of the Circuit Judges when in the District of Gaspé, shall be held to be a Judge of the Superior Court, but in so far only as relates to Terms or Sittings of the Court in the District of Gaspé, and to judicial acts to be done in the said District; and that each of the Circuit Judges for Lower-Canada, when in the District of Ottawa when Terms of the Superior Court shall be held therein, or in the District of Kamouraska when Terms of the Superior Court shall be held therein, shall at all times, except during any Term of the Superior Court in such District, have and exercise all the powers vested in any one Judge of the said Superior Court, and which might be exercised by him out of Term in such District: Provided always, that the limitations made in this section shall not impair or derogate from the effect, out of the said Districts, respectively, of any process, judgment, order or judicial act issued, rendered, made or done in the said Districts, respectively, by the Superior Court in the District of Gaspé, or by the said Circuit Judges or of any of them in any of the said Districts, as Judges or as exercising the powers of Judges, of the Superior Court, but such effect shall be governed by the general provisions of this Act in similar cases.

XIV.

XIV. And be it enacted, That terms and Sittings of the Superior Court, and of the Judges thereof, shall be held at the places hereinafter mentioned, in each of the Districts into which Lower-Canada is or may be divided: And all actions, suits, or proceedings may be commenced at the place where the terms of the said Court are held in any District, provided the cause of such actions, suits or proceedings respectively, shall have arisen within such District, or the defendant or one of the defendants, or the party or one of the parties, to whom the original Writ, Order or Process shall be addressed, shall be domiciled or served personally with such Writ, Order or Process within such District, and that all the Defendants or parties aforesaid, be legally served with Process, and not otherwise, except where any of the said Defendants or parties shall be summoned by advertisement as hereinafter mentioned.

Where the Terms of the S. Court shall be held.
In what district any action in the S. Court may be commenced.

XV. And be it enacted, That the terms of the Superior Court in each of the said Districts, shall be held by not more than three nor less than two of the Judges of the said Court; and in term any two of the said Judges shall form a Quorum, and may exercise all or any of the powers of the Court, but if they be divided in opinion on any matter, such matter shall stand over for future decision; and in the said Court, the Chief Justice shall preside, or if he be not present, then the Puisné Judge entitled by his Commission to precedence in the Court.

Who shall hold the Court.
Quorum.
Equal division.
Who shall preside.

XVI. And be it enacted, That Terms of the Superior Court shall be held at the times hereinafter mentioned in each and every year, and at the places also hereinafter mentioned, that is to say:

Times of holding the Terms of the S. Court.

At the City of Montreal, in and for the District of Montreal, from the first to the twentieth of April; and from the first to the twentieth of September; and from the first to the twentieth of December;

At Montreal.

At the City of Quebec, in and for the District of Quebec, from the first to the twentieth of April; and from the first to the twentieth of September; and from the first to the twentieth of December;

At Quebec.

At the Town of Three-Rivers, in and for the District of Three-Rivers, from the twelfth to the twenty-fifth of February; from the first to the fourteenth of June; and from the first to the fourteenth of November;

At Three-Rivers.

At the Town of Sherbrooke, in and for the District of St. Francis, from the twentieth to the thirty-first of January; and from the sixteenth to the twenty-seventh of July;

At Sherbrooke.

At Percé and New Carlisle, in and for the District of Gaspé, viz., at Percé, from the twenty-first to the thirtieth of August, inclusively, and at New Carlisle; from the fourth to the thirteenth of September, inclusively, but the sittings at the two places forming only one Term;

In Gaspé.

And the days from and to which any Term is herein directed to be held, shall in all cases be both included in such Term;

Days to be reckoned inclusively.

At

In District of
Kamouraska.

At Kamouraska, in and for the District of Kamouraska, commencing on such two days respectively as shall be appointed by the Governor in the Proclamation hereinbefore mentioned to be in that behalf issued, and on the nine days next after such two days respectively, or such of them as shall be juridical days;

In District of
Ottawa.

At Aylmer, in and for the District of Ottawa, commencing on such two days respectively as shall be appointed by the Governor in the Proclamation hereinbefore mentioned to be in that behalf issued, and on the nine days next after such two days respectively, or such of them as shall be juridical days:

Provido: the
Court may pro-
long any
Term.

What Judges
shall ordinari-
ly go to hold
the Court in
Gaspé.

Provided always, that the Court shall have full power to continue any Term, in any of the said seven Districts, beyond the time herein fixed for its continuance, by any Order to be made for that purpose during such Term: And provided also, that it shall be the duty of the Judges of the Superior Court residing at Quebec, ordinarily to assist in holding the Terms of the said Court in the District of Gaspé, but this shall not prevent any other Judges from so doing if circumstances shall require it.

Weekly sit-
tings of the
Court at Que-
bec and Mon-
treal for certain
purposes.

XVII. And be it enacted, That in the Districts of Montreal and Quebec, out of Term, upon the first two juridical days in each week, in every month except August, the Court or any Quorum thereof, may hold sittings for the purpose of giving judgment in cases theretofore heard and taken *en délibéré*, and of hearing and giving judgment in cases by default or *ex-parte*, including cases of application for judgment of confirmation of title to immoveables, where there shall be no opposition or the oppositions shall be admitted by all parties, and of hearing and giving judgment in any case appealed, evoked or removed from any Circuit Court, or brought in the Superior Court, (as hereinafter provided,) because a Circuit Judge is a party thereto, but of which, from its nature or the amount in dispute, the Circuit Court would otherwise have cognizance, and may, in any case, hear and give judgment upon all issues of law raised upon demurrers or pleadings, and all motions, rules and incidental matters; but with the consent of all parties, any case may be heard upon the merits and determined at such sittings.

Any case may
be heard by
consent of
parties.

Jurisdiction of
S. Court con-
fined to certain
cases.

XVIII. And be it enacted, That the Superior Court shall, as aforesaid, take cognizance of all suits or actions (those purely of Admiralty jurisdiction excepted) which shall not be cognizable in the Circuit Court hereinafter mentioned, or which shall be evoked or otherwise removed from the said Circuit Court, or from any other Court or Jurisdiction, into the said Superior Court, and of such suits or actions only, unless in any case it be otherwise provided by this Act, and excepting always such suits, actions or proceedings as shall be pending in Superior Term in any one of the several Courts of Queen's Bench immediately before the time when this Act shall come fully into effect, and which shall be transferred to and shall subsist, depend and be continued in the Superior Court at the same place, as hereinafter directed.

Exception as
to suits, &c.,
pending in Q.
B. and trans-
ferred to S.
Court.

Form and
style of Writs
and Process.

XIX. And be it enacted, That all Writs and Process to be issued out of the Superior Court shall run in the name of Her Majesty, Her Heirs or Successors, and shall be sealed with the Seal of the said Court, and signed by the Prothonotary for the District in which they shall issue, whose duty it shall be to make out and prepare the same; and they shall not be tested in the name of any Judge, but the words "in witness whereof" "we have caused the Seal of our said Court to be hereunto affixed," shall be instead of such

Not to be tes-
ted in the
name of a
Judge.

such *teste*: Provided always, that no such Writ or Process shall be deemed void or voidable by reason of its having a wrong seal or no seal thereon; And every such Writ or Process may be either in the English or in the French language, any law, custom or usage to the contrary notwithstanding: and if any affidavit be required before the issuing of any such Writ or Process, the Prothonotary shall have full power to receive such affidavit, and to administer the necessary oath: Provided also, that this shall not be construed to prevent any Judge of the Court from receiving such affidavit and administering such oath if he shall think fit.

XX. And be it enacted, That all Writs of Summons issuing out of the Superior Court, except Writs of *Capias ad Respondendum*, *Saisie-Arrêt* before judgment, *Saisie-Gagerie*, or *Saisie-Revendication*, shall be directed to and executed and returned by any of the Bailiffs of the said Court appointed for the District in which the Writ shall issue, any law or custom to the contrary notwithstanding; but where any such Writ shall be to be executed, wholly or in part, in any District other than that in which it shall issue, then, whether it be a Writ of Summons, or a Writ of *Capias ad Respondendum*, *Saisie-Arrêt* before judgment, *Saisie-Gagerie*, or *Saisie-Revendication* it shall (except those cases in regard to which other provision is hereinafter made) continue to be directed to and executed and returned by the Sheriff of the District in which it is to be executed, as heretofore; and when any such Writ of Summons shall be directed to any Bailiff of the Court as aforesaid, the copies of the same to be served upon the parties according to Law, shall be certified as true copies, either by the Prothonotary of the said Court, for the District in which they shall have issued, or by the Attorney of the party suing out such Writ.

XXI. And be it enacted, That every Writ or Process issued before this Act shall come fully into effect, which shall have been made returnable into any one of the several Courts of Queen's Bench, in the exercise of any of those jurisdictions or powers hereby transferred to and vested in the Superior Court, on any Juridical day subsequent to the time when this Act shall come fully into effect, shall be returned on the said day into the Office of the Prothonotary of the Superior Court, at the place where it shall have been made returnable, and shall then have the same and no other effect as if it had been issued from the Superior Court, and had been made returnable on such day and at such place.

XXII. And be it enacted, That every day not being a Sunday or Holy-day, shall be deemed a juridical day, for all the purposes of this Act, and shall be a return day for all Writs, Process and proceedings required to be returned into the Superior Court.

XXIII. And be it enacted, That it shall not be necessary that any Defendant summoned to appear before the Superior Court, shall appear or be called in open Court, but the Writ of Summons shall be returned into the Prothonotary's Office, on the day on which it shall be returnable, and the Defendant may on that day or on the next following juridical day, file his appearance personally or by attorney, in the Office of the Prothonotary of the Court, at any time during office hours, and if he shall not file his appearance as aforesaid, he shall not thereafter be allowed to appear (except by express permission as hereinafter mentioned), and his default shall, on the juridical day next but one after the return day, be recorded, and the Court shall proceed to hear, try and determine the suit or action in due course of law: and every such Writ of

Language.
Proviso as to seal.

Requisite affidavits to be received by the Prothonotary.
Proviso.

To whom writs of summons shall be addressed.
Exception.

Further exception—as to writs to be executed out of the District.

Copies how certified when served by a Bailiff.

Return of writs, &c., issued before the commencement of this Act.

What shall be return days.

Defendant not to be called in Court, &c.

Appearance how filed.

Default.

Delay between

Summons

service and
return.

Summons shall be served at least ten days (of which neither the day of service nor the day of the return shall be reckoned as one) before the day fixed for the return thereof, if there be not more than five leagues from the place of service of the Writ to the place where the Defendant shall be summoned to appear; and if there be more than five leagues, then there shall be an additional delay of one day for every additional five leagues: Provided, nevertheless, that every Defendant or other party in or to any suit or action who shall appear in person shall be considered as having, for all the purposes of such suit or action and of all proceedings incident thereto or consequent thereon by such appearance, elected his legal domicile at the Office of the Prothonotary of the Court in which such suit or action shall have been instituted; and all notices and all services of papers or documents in such suit or action which should otherwise be given or made by one attorney *ad litem*, to or upon another, shall be considered as having been legally given or made at such Prothonotary's Office.

Proviso as to
service on de-
fendant's ap-
pearing in per-
son.

How Defend-
ant in default
may be allowed
to appear.

XXIV. And be it enacted, That notwithstanding any such default to appear, the Defendant may, at any time before judgment, be allowed by the Superior Court, or by any one Judge thereof, to appear, on a special application of which the Plaintiff shall have had one clear day's notice, and for good cause shewn to the satisfaction of such Judge.

Delay for
pleading and
between plea-
dings.
Demand of
plea and fore-
closure.

XXV. And be it enacted, That whether the appearance be filed in term or in vacation, the Defendant shall be allowed eight clear days from his appearance to plead to the Declaration, and the Plaintiff shall have a like delay to answer, and there shall be a like delay between each further pleading allowed by law; and if at the expiration of the delay allowed for any pleading, the same shall not be filed, the opposite party may demand the same, and if it be not filed on or before the third juridical day after such demand, may foreclose the party by whom it ought to have been filed; and the filing of the return of service of such demand shall be sufficient to authorize the Prothonotary, upon application in writing for *Acte* of foreclosure, to grant and record the same without further notice or formality: Provided always, that the party foreclosed shall nevertheless be entitled to at least one clear day's notice of the inscription of the cause for *enquête* or hearing, before such *enquête* shall be commenced or the cause shall be heard.

Proviso: right
of party fore-
closed to
notice.

Delay for
pleading may
be enlarged.
Pleading with-
in the delay.

XXVI. And be it enacted, That the delay for pleading may in any case be enlarged by the Superior Court, or by any one Judge thereof, on special application of which notice shall be given to the opposite party at least one clear day before it is made; and that any party may file any pleading within the time hereby allowed for filing the same.

How and
where *enquêtes*
may be taken.

XXVII. And be it enacted, That the *enquêtes* in causes cognizable in the Superior Court shall be taken before a single Judge, or before more than one Judge of the said Court, or before any Circuit Judge as *Commissaire Enquêteur* of the Superior Court, and as well in Term as in Vacation, subject to the provisions hereinafter made; and that for that purpose it shall be lawful for the Judges of the Superior Court to assign one room or more than one room in each Court House, in which the Court is held, for the taking of such *enquêtes* therein, and to fix the number of Clerks or Writers whom the Prothonotary of the Court shall employ for taking such *enquêtes*, accordingly as the case may require.

Circuit Judges
to be Com-

XXVIII. And be it enacted, That each and every Circuit Judge shall be a *Commissaire Enquêteur* of the Superior Court, and shall have all the powers of a single Judge thereof

thereof with regard to the taking of *enquêtes*; but it shall not be the duty of such Circuit Judge to act as *Commissaire Enquêteur* when any Judge of the Superior Court is present at the place where the *enquête* is to be taken, and not incapacitated from acting by sickness or otherwise.

missaires Enquêteurs.

Proviso: to act as such only in certain cases.

XXIX. And be it enacted, That in the Districts of Montreal, Quebec, Three-Rivers and St. Francis, every juridical day out of Term, except every day in the month of August and the days on which the Circuit Court shall sit at the same place, shall be an *enquête* day; as shall also every day in Term which shall have been appointed by the Court for that purpose: and that in each of the other Districts every juridical day in vacation, (except every day in the month of August), on which a Circuit Judge or *Commissaire Enquêteur* shall be present at the place where the Superior Court is held, and every day in Term or out of Term which shall be appointed by the said Court for that purpose, shall be an *enquête* day.

Enquête days at Quebec, Montreal, Three-Rivers and St. Francis.

In other Districts.

XXX. And be it enacted, That the Superior Court, or any Judge thereof, may, in its discretion, order the *enquête* in any case, or the examination of any witness or witnesses, or of any party to the cause, or other person required to be examined in such case, to be taken at any place where Terms of the Superior Court are held, or at any place where sittings of the Circuit Court are held, before any Judge of the Superior Court or *Commissaire Enquêteur* thereof; and this provision shall extend to *Faits et Articles*, *Serment décisoire*, or other Oath which may be legally required of any party; and the examination may, in the discretion of the Court, be had in the usual manner as if the witness or party examined had appeared at the place where the case is pending, or upon written interrogatories and cross interrogatories; and the Court may, in its discretion, order the record or any portion thereof to be transmitted to the place where the *enquête* or examination is to be taken, but no Commission or formality other than the order of the Court shall be requisite, and such order (and the other documents if any) shall be transmitted to the Prothonotary of the Superior Court or Clerk of the Circuit Court, as the case may be, at the place where the *enquête* or examination is to be had, and such Prothonotary or Clerk may thereupon issue the proper process to compel the attendance of any witness or party to be examined in the case, at the place named in such order and on any *enquête* day at such place, or on any day (to be appointed by the *Commissaire Enquêteur*) on which a *Commissaire Enquêteur* will be present at such place.

Court or Judge may order *enquêtes*, &c., to be taken in any District.

How any witness or party may be examined in such other District.

XXXI. And be it enacted, That nothing in the next preceding section shall be construed to prevent the said Superior Court, or any Judge thereof, from issuing any *Commission Rogatoire*, or Commission in the nature of a *Commission Rogatoire*, addressed to any Commissioner or Commissioners at any place out of Lower-Canada, or at any place within Lower-Canada, if from the circumstances of the case the Court, or such Judge, shall think the ends of Justice will be better attained by such Commission than by such order as in the next preceding section is mentioned.

Not to prevent the issuing of *Commissions Rogatoires*, &c.

XXXII. Provided always, and be it enacted, That the Superior Court shall have original cognizance of, hear, try and determine, in due course of law, any suit or action in which a Writ of *Capias ad Respondendum*, shall be sued out, or in which a trial by Jury may by law be had, and the plaintiff shall in and by his declaration therein filed, declare his choice and option to have a trial by Jury, although the sum of money, or the

Court to have jurisdiction in certain special cases: *Capias ad Respondendum*.

Jury cases.

Proviso as to
option of a
Jury trial.

Costs.

Cases where a
Circuit Judge
or Judge of Q.
B. residing at
Three-Rivers
or St. Francis
is or shall be-
come a party.

Jury trials may
be had in va-
cation.

Jury trial may
be ordered to
be had in any
District.

Proceedings in
such case.

Jury trials may
be had at Cir-
cuit Courts,
when proper
provisions
shall be made.

Judgments
which may be
appealed from
to be *motivés*.

the value of the thing demanded, in such suit or action, shall not exceed, or shall be under fifty pounds, currency : Provided always, that such declaration of the choice and option of the plaintiff to have a trial by Jury, or the declaration of such choice and option by the Defendant, in his Evocation, as hereinafter provided, shall bind all parties to proceed accordingly, whenever the suit or action shall be ready for such trial ; nor shall any other mode of trial be allowed therein, except by consent of all the parties ; and saving always the discretionary power of the Court over the costs in any case it may deem to have been vexatiously or unnecessarily brought in or removed into the Superior Court, instead of being brought or left to be determined in the Circuit Court by which it would have been cognizable : Provided also, that the Superior Court shall have original cognizance of any suit or action to which the Judge residing in the Town of Three-Rivers, or the Judge residing in the Town of Sherbrooke, or any Circuit Judge shall be a party, and which, from its nature, or the amount, or value of the thing demanded, would have been otherwise cognizable by the Circuit Court, but such suit or action shall be heard, tried and determined, at any sitting of the Superior Court in term or in vacation, according to the course and practice of the Circuit Court, and with like costs ; and any suit or action to which such Judge, residing in the town of Three-Rivers or in the town of Sherbrooke, or a Circuit Judge shall become a party to any intervention, opposition, *demande en garantie*, or otherwise, shall be at once removed into the Superior Court, in the same District.

XXXIII. And be it enacted, That the Judges of the Superior Court, or any one of them, shall be and they are hereby authorized in all cases of trial by jury in civil matters, to try the issues of fact, and to receive the verdicts of juries in vacation, on such days as the Court shall have appointed for that purpose ; any law to the contrary notwithstanding.

XXXIV. And be it enacted, That the Superior Court may, in its discretion, order the trial by jury in any civil case to be had in any district ; and if such trial be ordered to be had in a district other than that in which the cause is pending, the record in the cause and the order for the trial shall be sent to the Prothonotary of the Court for the District in which the trial is ordered to be had ; and thereupon all proceedings to trial and verdict shall be had in such district, as if the cause were pending there, and the verdict shall then be returned, with the record, to the Prothonotary of the District wherein the cause is pending, for judgment and all ulterior proceedings.

XXXV. And be it enacted, That when and so soon as lists of jurors shall have been made out, and the requisite provisions of law in that behalf enacted, it shall be lawful for the Superior Court to order any trial by jury in a civil case to be had at any Circuit Court ; and the Judge presiding at such trial shall receive the verdict of the jury and return the same into the Superior Court, to be by the said Court proceeded upon according to law.

XXXVI. And be it enacted, That each final judgment, and each interlocutory judgment from which an appeal may lie, rendered by the Superior Court, as well in any suit or action by default or *ex-parte* which shall be dismissed, as in any suit or action where issue shall have been joined, shall contain a summary statement of the points of fact and law, and the reasons upon which such judgment shall be founded, and the names of the Judges who shall have concurred therein or entered their dissent therefrom.

XXXVII,

XXXVII. And be it enacted, That an Appeal and Writ of Error shall lie to the Court of Queen's Bench established by an Act of this Session, from the judgments of the Superior Court (whether rendered in any cause commenced in the said Court, in the first instance, or brought into it by appeal, evocation, removal from some other Court, or transmission from some former Court,) in every case in which, from its nature or the amount in dispute, an Appeal or Writ of Error by Law lay, immediately before the coming into force and effect of the Act passed in the seventh year of Her Majesty's Reign and intituled, *An Act for the establishment of a better Court of Appeals in Lower-Canada*, from the judgments of the Courts of King's Bench in and for the several Districts of Lower-Canada, to the Provincial Court of Appeals, upon the same terms and conditions, and under and subject to the same restrictions, limitations, rules and regulations as were then established and obtained in Appeals from the said Courts of King's Bench to the said Provincial Court of Appeals.

In what cases an appeal shall lie from Judgments of the S. Court.

7 V. c. 18.

XXXVIII. And be it enacted, That all and every the Records, Registers, Muniments and judicial or other proceedings of the Courts of Queen's Bench in the several Districts of Lower-Canada (except only such as by any Act of this Session are directed to be transmitted into the Court of Queen's Bench established, as aforesaid, by an Act of this Session, and such as are by this Act directed to be transmitted into the Circuit Court,) shall forthwith, after this Act shall come fully into effect, be transmitted into and make part of the Records, Registers, Muniments, and judicial or other proceedings of the Superior Court hereby established, in the Districts and at the places in and at which the said several Courts of Queen's Bench are now respectively established and held; that is to say, the Records, Registers, Muniments, judicial and other proceedings of the said Court of Queen's Bench for the District of Montreal, shall be transmitted into the said Superior Court, and shall be kept in the Office of the Prothonotary thereof for the said District, at the City of Montreal; and the Records, Registers, Muniments, judicial and other proceedings of the said Court of Queen's Bench for the District of Quebec, shall be transmitted into the said Superior Court, and shall be kept in the Office of the Prothonotary thereof for the said District, at the City of Quebec; and the Records, Registers, Muniments, and judicial or other proceedings of the said Court of Queen's Bench for the District of Three-Rivers, shall be transmitted into the said Superior Court, and shall be kept in the office of the Prothonotary thereof for the said District, at the Town of Three-Rivers; and the Records, Registers, Muniments, judicial or other proceedings of the said Court of Queen's Bench for the District of St. Francis, shall be transmitted into the said Superior Court, and shall be kept in the Office of the Prothonotary thereof for the said District, at the Town of Sherbrooke; and the Records, Registers, Muniments, judicial and other proceedings of the said Court of Queen's Bench for the District of Gaspé, shall be transmitted into the said Superior Court, and shall be kept in the Office of the Prothonotary thereof for the said District, at Percé and at New Carlisle, respectively, that is to say, those which before the passing of this Act, would be kept at Percé, shall be kept in the Office of the said Prothonotary there, and those which before the same time, would be kept at New Carlisle, shall be kept in the Office of the said Prothonotary there.

Transmission of certain records, &c., of the present Courts of Q. B. into the S. Court.

Places to which they shall be transmitted.
Montreal.

Quebec.

Three-Rivers.

Sherbrooke.

Gaspé.

XXXIX. And be it enacted, That no judgment, order, rule or act of the said several Courts of Queen's Bench respectively, legally pronounced, given, had or done before this Act shall come fully into effect, shall be hereby avoided, but shall remain in full force and virtue as if this Act had not been passed; nor shall any action, information, suit, cause

Actions, &c., in the present Courts of Q. B. to be continued in the S. Court.

cause or proceeding depending in the said Courts respectively, be abated, discontinued or annulled, but the same shall (except such as are by this Act or any other Act of this Session, directed to be transferred to and to subsist in some Court other than the Superior Court), be transferred in their then present condition respectively to and subsist and depend in the said Superior Court, in the several and respective Districts in which they shall be subsisting and depending when this Act shall come fully into effect, as if they had respectively been commenced, brought or recorded in the said Superior Court, and in such District as aforesaid, and whatever be the amount or value in dispute, and other and further proceedings shall be therein had in the said Superior Court to judgment and execution, or subsequent thereto, as might have been had in the said several Courts of Queen's Bench respectively, or in the said Superior Court in cases or proceedings commenced and depending before that Court.

Records, &c.,
of the present
Courts of Q.
B. in Inferior
Term, to be
transmitted
into the Cir-
cuit Court at
the same place.
Montreal.

XL. And be it enacted, That all and every the Records, Registers, Muniments and judicial or other proceedings of the Courts of Queen's Bench in the several Districts of Lower-Canada, in the Inferior Terms of the said Courts respectively, shall forthwith, after this Act shall come fully into effect, be transmitted into and make part of the Records, Registers, Muniments, and judicial or other proceedings of the Circuit Court, in the Circuits and at the places in and at which the said Courts of Queen's Bench are now respectively established and held; that is to say, the Records, Registers, Muniments, judicial and other proceedings of the said Court of Queen's Bench for the District of Montreal, in the Inferior Term of the said Court, shall be transmitted into the said Circuit Court, and shall be kept in the Office of the Clerk thereof for the Montreal Circuit, at the City of Montreal; and the Records, Registers, Muniments, judicial and other proceedings of the said Court of Queen's Bench for the District of Quebec, in the Inferior Term of the said Court, shall be transmitted into the said Circuit Court, and shall be kept in the Office of the Clerk thereof for the Quebec Circuit, at the City of Quebec; and the Records, Registers, Muniments, and judicial or other proceedings of the said Court of Queen's Bench for the District of Three-Rivers, in the Inferior Term of the said Court, shall be transmitted into the said Circuit Court, and shall be kept in the Office of the Clerk thereof for the Three-Rivers Circuit, at the Town of Three-Rivers; and the Records, Registers, Muniments, judicial or other proceedings of the said Court of Queen's Bench for the District of St. Francis, in the Inferior Term of the said Court, shall be transmitted into the said Circuit Court, and shall be kept in the Office of the Clerk thereof for the Sherbrooke Circuit, at the Town of Sherbrooke.

Quebec.

Three-Rivers.

Sherbrooke.

Actions, &c.,
in the Inferior
Terms, to be
continued in
the Circuit
Court held at
the same place.

XLI. And be it enacted, That no judgment, order, rule or act of the said Courts of Queen's Bench respectively, in Inferior Term, legally pronounced, given, had or done before this Act shall come fully into effect, shall be hereby avoided, but shall remain in full force and virtue as if this Act had not been passed; nor shall any action, information, suit, cause or proceeding depending in the said Courts respectively in Inferior Term, be abated, discontinued or annulled, but the same shall be transferred in their then present condition respectively to and subsist and depend in the said Circuit Court, in the several and respective Circuits in and into which the Records and other proceedings therein, are hereinbefore directed to be transmitted and kept, when this Act shall come fully into effect, as if they had respectively been commenced, brought or recorded in the said Circuit Court, and in such Circuit as aforesaid, and other and further proceedings shall be therein had in the said Circuit Court to judgment and execution,

execution, or subsequent thereto, as might have been had in the said several Courts of Queen's Bench respectively, in Inferior Term, or in the said Circuit Court in cases or proceedings commenced and depending before the said Court: and the provisions of this and of the next preceding section shall apply to the judgments of the several Courts of King's Bench, mentioned in the Act passed in the eleventh year of Her Majesty's Reign, and intituled, *An Act to render executory certain Judgments rendered by the late Courts of King's Bench for Lower-Canada*, and to the Records and proceedings in the said Courts of King's Bench in Inferior Term.

This section to apply to judgments of the former Courts of K. Bench.
11 V. c. 4.

XLII. And be it enacted, That a Court of Record, to be called the Circuit Court, and having jurisdiction throughout Lower-Canada, shall continue to be holden every year in each of the Circuits in Lower-Canada, hereinafter mentioned, by one of the Judges of the Superior Court, or by one of the Circuit Judges; Provided always, that nothing in this Act contained shall be construed to make the Circuit Court to be held under it at any place a new Court, or to abate or discontinue any suit, action or proceeding pending therein, but the Circuit Court to be holden under this Act shall be held to be to all intents and purposes, one and the same with the Circuit Court holden at the same place under the Acts hereby repealed, notwithstanding any change hereby made in its name, constitution or jurisdiction, or in the times at which it is to be held.

Circuit Court established for Lower-Canada.

Circuit Court at any place not to be deemed a new Court, &c.

XLIII. And be it enacted, That the District Judges for the District of Gaspé shall from and after the time when this Act shall come fully into effect, and without any new Commission, be and be called Circuit Judges, and not District Judges, and that they and the other Circuit Judges theretofore appointed in and for the other Districts, shall by virtue of this Act, and without any new Commission, and until they shall respectively resign, be removed or suspended from office, be Circuit Judges for Lower-Canada, as shall also, each and every Circuit Judge thereafter appointed; and the Circuit Judges for Lower-Canada, whether appointed before or after the time when this Act shall come fully into effect, shall each respectively have full power to act as such in any part of Lower-Canada, but the Districts and places in and at which they shall respectively reside, and in which they shall ordinarily act, shall be from time to time appointed by the Governor, but this shall not prevent their acting in other places or Districts whenever circumstances shall require them so to do: provided that at least one of the said Circuit Judges shall reside at New Carlisle, in the District of Gaspé, and at least one of them at Percé, in the said District, and at least one of them at Aylmer, in the District of Ottawa, after the Proclamation establishing the said District shall have issued, and at least one of them at Kamouraska, in the District of Kamouraska, after the Proclamation establishing the said District shall have issued, and at least one of them at Chicoutimi, in the Circuit of Saguenay, and the others shall respectively reside at the City of Montreal, or at the City of Quebec: And the total number of the said Circuit Judges in office at any one time shall not be more than nine.

District Judges in Gaspé to be hereafter called Circuit Judges.

Circuit Judges to be so for all Lower-Canada.

Where the Circuit Judges shall reside.

Their number limited to nine.

XLIV. And be it enacted, That whenever any of the Circuit Judges appointed before or after the time when this Act shall come fully into effect, shall die, resign or be removed, or suspended from office, or whenever, from any cause, the number of Circuit Judges shall be or become less than the number fixed in and by the next preceding section, and it shall be deemed expedient to fill the vacancy thus existing, it shall be awful for the Governor of this Province, by an Instrument under the Great Seal hereof, to appoint a proper person to be a Circuit Judge for Lower-Canada; and all

How vacancies shall be filled.

such

Circuit Judges to be Chairmen of Quarter Sessions.
Other duties may be assigned to them.
Proviso: not to act as advocates, &c.

such Circuit Judges, appointed before or after the passing of this Act, shall be *ex officio* Justices of the Peace, and shall act as Chairmen of the General or Quarter Sessions in and for the several Districts in Lower-Canada, and for the Chicoutimi Circuit, when such Sessions shall be held therein; and the said Circuit Judges shall also have such powers and duties as are hereinafter assigned to them, or as may be assigned to them by any other Act of the Legislature: Provided always, that no such Circuit Judge shall act as Advocate, Attorney, or Counsel in Lower-Canada.

Proviso: Sessions not to be incompetent by their absence.

Act 6 V. c. 3, not to apply to them.

XLV. Provided always, and be it enacted, That nothing in this Act shall be construed to render any Court of General or Quarter Sessions incompetent by reason of the absence of any Circuit Judge, who, if present, would be the Chairman of the Court: And provided also, that the provisions of the Act passed in the sixth year of Her Majesty's Reign, and intituled, *An Act for the Qualification of Justices of the Peace*, shall not extend to any Circuit Judge; any thing in the said Act to the contrary notwithstanding.

Who may be appointed a Circuit Judge.

XLVI. And be it enacted, That no person shall be appointed a Circuit Judge unless he be an Advocate of at least five years' standing at the bar of Lower-Canada.

Cases in which the Circuit Court shall have jurisdiction.

Proceedings to be summary in cases up to £15 and in good conscience up to £6. 5s.

Proviso.

Certain actions evocable by defendant in certain cases to the S. Court.

Proceedings on evocation.

If maintained.

If overruled.

XLVII. And be it enacted, That the Circuit Court shall have cognizance of and shall hear, try and determine all Civil Suits or Actions, as well those where the Crown may be a party as others (those purely of Admiralty jurisdiction excepted) wherein the sum of money or the value of the thing demanded shall not exceed Fifty pounds currency, and wherein no Writ of *Capias ad Respondendum* shall be sued out; and if the said sum or value shall not exceed Fifteen pounds currency, the Suit or Action shall be heard, tried and determined in a summary manner; and if the said sum or value shall not exceed Six pounds Five shillings currency, then the said Suit or Action shall be determined according to equity and good conscience; Provided always, that if any such Suit or Action shall relate to any title to lands or tenements, or to any sum of money payable to Her Majesty, or to any fee of office, duty or rent, revenue, annual rents or such like matters or things where the rights in future may be bound, or shall be a suit or action in which a trial by jury may by law be had and in which the defendant shall in and by his evocation declare his choice and option to have a trial by jury, it shall be lawful for the party defendant, before making his defence to the merits of any such suit or action, to evoke the same, and by such evocation to require that the said suit or action be removed and carried for hearing, trial and judgment, to and in the Superior Court in the same District; and every such evocation shall be filed and entered of record, and the said suit or action shall thereupon be removed into the said Superior Court, which shall, at any sitting thereof, in or out of Term, proceed to hear and determine in a summary way whether the said evocation be well founded; and if it should maintain the said evocation and adjudge the same to be well founded, proceedings shall thereupon be had in the said Superior Court to trial and judgment and execution according to the rules of proceeding in the said Court, as if the said suit or action had been originally instituted therein; and if the said evocation should be overruled, the said suit or action shall be remitted to the Circuit Court there to be heard, tried and finally determined.

Evocation by plaintiff on

XLVIII. And be it enacted, That if in any suit or action which might be so evoked as aforesaid, the defendant shall not evoke the same, but shall make any plea or defence by

by which the plaintiff's title to any lands or tenements shall be disputed or called in question, or by which, if maintained, his rights in future would be impaired or injuriously affected, it shall then be lawful for the plaintiff to evoke such suit or action, in the same manner and with the same effect as the defendant might have done, and such evocation and the suit or action so evoked shall be subject to the provisions herein made as to suits or actions evoked by the defendant.

defendant's plea.

XLIX. And be it enacted, That all actions, suits, or proceedings may be commenced at the place where the terms of the Circuit Court are held in any Circuit, provided the cause of such suits, actions or proceeding respectively, shall have arisen within such Circuit, or the defendant or one of the defendants, or the party or one of the parties, to whom the original Writ, Order or Process shall be addressed, shall be domiciled or served personally with such Writ, Order or Process within such Circuit, and that all the defendants or parties aforesaid be legally served with Process and not otherwise, except where any of the said defendants or parties shall be summoned by advertisement as hereinafter mentioned: Provided always, that the Process may in such cases be served out of the limits of the Circuit, but in the District in which such Circuit is situate, by any Bailiff of the Superior Court appointed in and for such District.

In what Circuit actions, &c., may be commenced.

Proviso as to service of process.

L. And be it enacted, That in any suit or action to be brought in the Circuit Court, the first Process to be issued for bringing the defendant before the said Court, to answer the *demande* made in such suit or action, shall be a Writ of Summons, in which the Plaintiff's cause of action shall be briefly stated, unless there shall be attached to such Writ of Summons a Declaration setting forth the cause of action, in which case it shall be sufficient that in the Writ of Summons reference be made to the Declaration for the cause of action; and such Writ of Summons may be in the form contained in the Schedule A, to this Act subjoined, and shall be served at least five days (of which neither the day of service nor the day of return shall be reckoned as one) before the day fixed for the return thereof, if there be not more than five leagues from the place of service to the place where the Court shall be held; and if, in any such case, there be more than five leagues, then there shall be an additional delay of one day for every additional five leagues; and such Writ of Summons shall be directed to and executed by any Bailiff of the Superior Court appointed in and for the District in which the same shall have been issued, any law or custom to the contrary notwithstanding; and the copies of the Writ of Summons and of the declaration, if any there be, to be served upon parties according to law, shall be certified as true copies, either by the Clerk of the Circuit Court, or by the Attorney of the Plaintiff: Provided always, that in all cases cognizable by the Circuit Court, where such Writ of Summons may by law be executed in any District other than the District in which the same shall have issued, such Writ of Summons shall be directly addressed to the Sheriff of such other District, and shall be executed and returned by such Sheriff to the Circuit Court at the place from which it shall have issued, according to the exigency of such Writ and to law.

Process by which actions &c., shall be commenced.

Form of Writ of Summons, Delay between service and return.

By whom service shall be made,

Copies how certified.

Proviso as to Process to be executed out of the District.

LI. And be it enacted, That all Writs and Process issuing out of the Circuit Court, shall run in the name of Her Majesty, Her Heirs or Successors, and shall be sealed with the Seal of the Court, and signed by the Clerk whose duty it shall be to prepare the same, and shall not be tested in the name of any Judge, but the words "in witness whereof we have caused the Seal of our said Court to be hereunto affixed" shall be instead

Style and form of Writs and Process.

instead of such *teste*, and all such Writs and Process may be either in the English or in the French language; any law, usage or custom to the contrary notwithstanding.

Return of
Process issued
before the
commence-
ment of this
Act.

In appealable
cases.

In non-ap-
pealable cases.

Effect.

LII. And be it enacted, That every Writ or Process issued before this Act shall come fully into effect, which shall have been made returnable into any one of the several Courts of Queen's Bench, in the Inferior Term thereof, or into any Circuit Court, on any day subsequent to the time when this Act shall come fully into effect, shall be returned on that day into the office of the Clerk of the Circuit Court, at the place where it shall have been made returnable, unless it shall have issued in a non-appealable case, and such day shall happen not to be a return day in such cases, and it shall then be returned into the said Court at the said place, on that juridical day which shall be next after the day on which such Writ or Process shall have been made returnable, and in either case it shall then have the same effect, and no other, as if it had been issued from the Circuit Court, and had been made returnable on such day and at such place.

Appeal to the
Superior Court
in certain
cases.

LIII. And be it enacted, That from any Judgment rendered by the Circuit Court, in any suit or action in which the sum of money or the value of the thing demanded shall exceed fifteen pounds currency, if such judgment be rendered after this Act shall come fully into effect, or in which the sum of money or value of the thing demanded shall exceed ten pounds currency, if such judgment shall have been rendered in any suit or action brought before the said time, or which shall relate to any titles to lands or tenements, or to any sum of money payable to Her Majesty, fee of office, duty or rent, revenue, annual rents, or such like matters or things, where the rights in future may be bound, an appeal shall lie to the Superior Court in the District within which the suit or action shall have been originally instituted; which said Court shall proceed to hear and adjudge on such appeal as to law may appertain, and in the manner herein-after provided.

Mode of bring-
ing appeals.

Security.

Before whom
and how
given.

Who may be
surety.

Justification.

Proviso: if the
appellant al-
lows the

LIV. And be it enacted, That the party appealing from any judgment rendered as aforesaid by the Circuit Court, shall within fifteen days after the rendering of the judgment to be appealed from (but without being bound to give previous notice thereof to the adverse party) give good and sufficient security, by sureties who shall justify their sufficiency to the satisfaction of the person before whom it shall be given as hereinafter provided, that he will effectually prosecute the said appeal and answer the condemnation and also pay such costs and damages as shall be awarded by the Superior Court if the judgment appealed from should be affirmed; and such security shall be given either before any Judge of the Superior Court or the Prothonotary thereof, and the bond shall then be deposited and remain of record in the Office of the latter, or it shall be given before any Circuit Judge, when at the place where the said judgment appealed from shall have been rendered, or before the Clerk of the Circuit Court at such place, and the bond shall then be deposited, and remain of record in the office of the latter; and any one surety, being a proprietor of real property of the value of fifty pounds currency, over and above all incumbrances payable out of or affecting the same, shall suffice to render such security valid; and the said Judges, Prothonotaries, or Clerks, are hereby respectively authorized to administer all oaths required by law in such cases from the persons so becoming sureties, and to put to them all necessary enquiries and questions: Provided always, that if the party appealing shall, within the same delay of fifteen days after the rendering of the judgment, agree and declare in writing

writing at the Office of the Prothonotary of the Superior Court, or at the Office of the Clerk of the Circuit Court appealed from, that he does not object to the judgment being carried into effect according to law, or shall pay into the hands of either of the said Prothonotaries or Clerks, the amount, in capital, interest and costs, of the said judgment, and shall, at the same time, declare in writing his intention to appeal, (which amount, when so paid, the respondent shall be entitled to have and receive from the said Prothonotary or Clerk) then, and in that case, the party so appealing, in lieu of the security above required, shall give security only for such costs and damages as shall be awarded by the Superior Court, in case the appeal be dismissed; and provided also, that when only such last mentioned security shall have been given, the respondent, if the judgment appealed from be reversed, shall not be bound to return to the appellant more than the amount of money so paid by the latter into the hands of the Prothonotary or Clerk, with the legal interest thereon from the day of the payment of the same to the said Prothonotary or Clerk—or more than the sum levied under the execution sued out upon such judgment, with the legal interest upon such sum from the day of its being so levied,—or more than the restitution of the real property whereof the respondent shall have been put in possession by virtue of the said judgment, and the net value of the produce and revenues thereof, to be computed from the day the respondent shall have been put in possession of such real property, until perfect restitution is made,—with the costs of such appellant, as well in the Court appealed to as in the Court below, but without any damages, in any of the said cases, against the respondent by reason of the said Judgment or of the said execution; any law, custom or usage to the contrary notwithstanding.

judgment to be executed, or paid in the amount of the judgment.

Proviso: effect of reversal of judgment in the cases last mentioned.

LV. And for the purpose of obviating delay and expense in the prosecution of appeals from judgments rendered by the Circuit Court—Be it enacted, That such appeals shall be prosecuted and proceedings thereon had in a summary manner, by petition of the appellant to the Superior Court setting forth succinctly the grounds of appeal, and praying for the reversal of the judgment appealed from, and the rendering of such judgment as by the Court below ought to have been rendered; a copy of which petition, with a notice of the time at which it is to be presented to the Superior Court, shall be served on the adverse party personally, or at domicile, or on his Attorney *ad litem*, within twenty-five days from the rendering of the judgment appealed from; and such petition shall be so presented at some Weekly Sitting or Term (whichever shall first happen) of the Superior Court, next succeeding the rendering of the judgment, if there shall be an interval of thirty days between the rendering of such judgment and such sitting or term, and if there shall not be such an interval, then on the first juridical day of the sitting or term next succeeding the expiration of the thirty days next after the rendering of such Judgment: Provided always, that neither the day of the rendering of the judgment appealed from, nor the day of the presenting of the said petition to the Superior Court, shall be considered as forming part of the said interval of thirty days; And provided also, that a true copy of the appeal bond given by the party appealing, certified as such by the Prothonotary or Clerk in whose Office it shall have been deposited, shall be annexed to the original of the petition presented to the Superior Court, and that a copy or copies of the same, certified as such by the party appealing, or his Attorney, shall be served, with the petition and notice hereinbefore mentioned, upon the party respondent.

Appeals to be determined summarily.

Petition, notices, &c.

Service of copy of Petition.

When to be presented.

Proviso: mode of computing the delay.

Proviso: copy of the appeal-bond to accompany the Petition.

Proceedings for causing the record to be transmitted to the Superior Court.

Transmission of the record.

Subsequent proceedings.

Proviso: judge appealed from not to sit.
Equal division.

Appeal to be deemed abandoned in certain cases.

Defaults in non-appealable cases.

Proceedings after default.

Plaintiff not appearing.

Plaintiff establishing his demand.

Pleadings in non-appealable cases.

LVI. And be it enacted, That within the same delay of twenty-five days after the rendering of the judgment appealed from as aforesaid, the party appealing shall also cause a copy of the said petition and notice only, to be served upon the Clerk in the Office and custody of whom the record in the suit or action in which the judgment is appealed from shall be, with a certificate from the Prothonotary of the Superior Court, that security in appeal has been given, if the appeal-bond shall not be deposited in the Office of the Court appealed from; and thereupon it shall be the duty of the said Clerk of the last mentioned Court without waiting for the presenting of the said petition to the Superior Court, forthwith to certify under his hand and the Seal of the Court, to the Superior Court, and to cause to be transmitted to the said Court (to be filed among the Records thereof) the judgment, record, evidence, and proceedings to which such appeal shall relate; and after the transmission of the said judgment, record, evidence and proceedings, and the filing of the said petition of appeal by and on the part of the appellant as aforesaid, the appeal shall, without any further formality, be summarily heard, and judgment thereon rendered by the said Court, as to Law and Justice may appertain; Provided always, that if the judgment appealed from shall have been rendered, by any Judge of the Superior Court holding the Circuit Court, such Judge shall not sit on the hearing and judgment of the cause upon such appeal; and if the Superior Court be equally divided on the question whether the judgment appealed from ought or ought not to be affirmed, it shall stand and be affirmed; And provided also, that any appellant who shall neglect to cause a copy of such petition and notice of appeal to be served as aforesaid or who after having caused the same to be served, shall neglect to prosecute effectually the said appeal in the manner hereinbefore prescribed, shall be considered to have abandoned the said appeal, and upon the application of the respondent, the Court appealed to shall declare all right and claim founded on such appeal to be forfeited, and shall grant costs to the respondent, and order the record (if transmitted) to be remitted to the Court below.

LVII. And be it enacted, That if the Defendant in any non-appealable suit or action instituted in the Circuit Court, shall not appear personally or by his Attorney, on the day fixed for the return of the Writ of Summons, his default shall be recorded; and in any such case it shall not be necessary that the defendant be called on the third day, or at any other time thereafter, nor shall he be entitled to appear at any other time, and have the said default taken off, unless express permission be given to him by the Court, any law, usage or custom to the contrary notwithstanding; and after the default shall have been so recorded, it shall be lawful for the Court, after due proof of the service of the Writ of Summons, in a summary manner, to receive evidence and hear the Plaintiff in support of his *demande* in such suit or action, and thereupon to make and render such judgment as Law and Justice may require; and if the said Defendant should appear on the said day, either personally or by his Attorney and the Plaintiff should not appear either personally or by his Attorney, or appearing should not prosecute his suit or action, the same shall be dismissed, with costs to the Defendant against the Plaintiff; and if the Plaintiff in any such suit or action should establish his demand, he shall be entitled to recover the sum of money or thing by him demanded, and costs against the Defendant.

LVIII. And be it enacted, That in non-appealable cases, the pleadings after the declaration shall be oral or in writing, at the option of the Defendant, unless the Court shall expressly order the same to be in writing; and if the Defendant choose to plead in writing,

writing, he shall file his plea upon appearing, unless further delay be granted to him by the Court, but if he be ordered to plead in writing he shall have such delay as the Court shall allow him by such order, and in either case no answer in writing by the Plaintiff shall be necessary, unless expressly ordered by the Court; and if the Defendant do not plead in writing, he shall, on appearing, be called upon by the Court to state orally or in writing what facts (if any) alleged in the Plaintiff's declaration he is willing to admit, and his admission shall be recorded, and if he refuses or neglects to make such statement, he shall be deemed to have denied them all, and shall be liable for the costs of the proof thereof, as hereinafter provided in other cases; and if the Plaintiff be ordered to answer in writing he shall have such delay to answer as the Court shall allow him by such order

Articulation de faits by defendant in such cases.

LIX. And be it enacted, That in appealable cases the pleadings shall be in writing, and the delay for pleading, answering and replying shall be the same as in the Superior Court.

In appealable cases delay for pleading, &c. to be as in S. Court.

LX. And be it enacted, That in any non-appealable suit or action in the Circuit Court, it shall not be necessary to reduce to writing the depositions of the witnesses, but such witnesses shall be examined *vivâ voce*, in open Court, nor shall it be necessary that any notes of the evidence be taken by the Judge, any law, custom or usage to the contrary notwithstanding; but in any appealable suit or action, that is in any suit or action in which, by this Act, an appeal may lie to the Superior Court, the evidence shall be reduced to writing in the same manner as in the Superior Court; and every day on which a Judge of the Superior Court or a Circuit Judge shall be present at the place where the Court is held in any Circuit, shall be an *enquête* day for causes pending in such Circuit, but the taking of any *enquête* shall not prevent the Judge from proceeding with the dispatch of any other business before him or before the Court: Provided always, that by consent of all the parties to any appealable suit or action, the evidence therein may be taken orally as in non-appealable cases: And provided also, that the *enquêtes* in cases pending before the Circuit Court may always be taken by and before any Judge of the Superior Court, and it shall be the duty of any such Judge when presiding at *enquêtes* in cases pending in the Superior Court, to preside at the *enquêtes* in cases pending in the Circuit Court which are to be taken on the same day and at the same place, and he shall and may preside at both at the same time: nor shall his having presided at the *enquête* in any case in the Circuit Court, or his having given any decision with regard to the evidence therein while so presiding, disqualify him from sitting in the Superior Court on any appeal brought thereto in such case.

Oral evidence in non-appealable cases.

In appealable cases, to be in writing.

What shall be *enquête* days.

Proviso: oral evidence by consent in any case.

Proviso: Judge of S. C. to take *enquêtes* in C. Court in certain cases.

Proviso as to appeals in such cases.

LXI. And be it enacted, That the Judge holding any Circuit Court, shall as well in Court as out of Court or in vacation have like power to order the *enquête* in any suit or action to be taken, or any witness or party to be examined, before a Judge of the said Court in any other Circuit on any day to be appointed by such Judge, and to order the transmission of the record or of any portion thereof to such other Circuit, as is hereinbefore vested in the Superior Court or any Judge thereof, and such order shall be obeyed accordingly by the Clerk of the Court for the Circuit in which such *enquête* is to be taken or such witness or party is to be examined; and the provisions hereinbefore made in similar cases with reference to the Superior Court or to any Judge thereof, by the Thirtieth section or by the Thirty-first section of this Act, shall apply to the cases mentioned in this section.

Enquêtes, &c., may be ordered to be taken in any other Circuit.

Provisions of Sect. 30, 31, to apply in such cases.

Distance from which witnesses may be compelled to attend.

LXII. Provided always, and be it enacted, That no person shall be bound to attend the Circuit Court as a witness in any suit or action pending therein, unless he be resident within fifteen leagues of the place at which he shall be summoned to attend or within the Circuit in which such place shall be.

Circuit Court may issue certain Writs.

LXIII. And be it enacted, That the Circuit Court shall have power and authority in causes and matters cognizable therein, to issue Writs of *saisie-arret* before or after judgment, *saisie-gagerie*, and *saisie-revendication*, to be made returnable in the said Court, in the same and in like cases and circumstances in which such Writs might immediately before the time when this Act shall come fully into effect, lawfully be issued from and be made returnable in any of Her Majesty's Courts of civil jurisdiction in Lower-Canada, and under and subject to the rules of law in such cases provided; and that in all cases where such Writs shall be issued out of the said Circuit Court, it shall and may be lawful for the Clerks of the said Court respectively, to take and receive the necessary oath, affidavit or proof, in such cases by law required, and thereupon to issue, without the *fiat* of a Judge, any of the above mentioned Writs, in like manner as if the same had been granted or awarded by a Judge of the proper Court; Provided always, that nothing herein contained shall prevent any Judge of the Superior Court, or Circuit Judge, from granting or awarding any such Writ as aforesaid, in cases where he could otherwise do so according to law: and provided

Who may receive affidavits for obtaining Writs.

always, that in all cases in which a Writ of *Capias ad Respondendum*, or a Writ of *Saisie-Arret* before Judgment in an action cognizable by the Superior Court, may by law be issued, the Clerks of the Circuit Court respectively shall have the same power and authority as are vested in the Prothonotaries of the Superior Court respectively, to receive the requisite affidavit, and to issue such last mentioned Writ of *Capias ad Respondendum*, or of *Saisie-Arret* before Judgment, and to make the same returnable in the Superior Court in the District in which the same shall have issued; and the Writs last mentioned shall, in any such case, be addressed directly, either to the Sheriff of the said District, or to any Bailiff of the Superior Court, appointed for the same and by them respectively executed and returned; and when such Writ shall be so addressed to any such Bailiff, such Bailiff shall without delay proceed to execute the same, without any previous Warrant from the Sheriff, and shall deliver the Writ, with a report of his proceedings thereon to the Sheriff, to whom he shall also deliver the body, or the goods attached, as the case may be, to be dealt with according to law, and by whom the Writ and the proceedings thereon shall then be returned to the Superior Court: Provided always, that in such case, the Sheriff shall not be responsible for any act done by the Bailiff, until the Officer last named shall have complied with the foregoing requirements; and in every such case service of the declaration in the cause may be made in the same manner and within the same delay as if the Writ had been issued by the Prothonotary of the Superior Court, and addressed to and executed by the Sheriff: Provided always, that in all cases where any such Writ of Attachment against the body or goods shall be issued by any Clerk of the Circuit Court, and made returnable in the Superior Court, the defendant shall be entitled to the same relief on giving security or otherwise to the Sheriff, and in default shall be committed to the common Gaol of the District, in like manner as if such Writ had been issued by the Prothonotary of the Superior Court.

Proviso.

Proviso: Certain Writs may be issued by the Clerks of the Court and made returnable in C. Court.

Such Writs to whom to be addressed. If to a Bailiff.

Report to Sheriff.

Proviso: When the responsibility of the Sheriff shall commence, &c.

Proviso: Defendant to have the usual relief by Bail, &c.

Certain powers vested in the Circuit Court,

LXIV. And be it enacted, That all powers vested in the Superior Court or in the Judges or Officers of such Court, respectively, in any suit or action pending in the said Court,

Court, with regard to the summoning of Defendants *en garantie*—the admission of parties to intervene—the summoning of witnesses and the adduction of evidence—the production of papers and other things in the possession of any witness or party—the examination of any witness or party, and the oaths to be deferred, referred or required of them—the issuing of any *Commission Rogatoire* or Commission in the nature of a *Commission Rogatoire*—the examination of any witness sick or about to leave Lower Canada—the enforcing of the attendance of witnesses duly summoned, and the punishment of such as shall disobey any Writ of *Subpœna*—the imprisonment (*contrainte par corps*) of any defendant or party resisting or fraudulently endeavouring to evade the execution of any Writ against his goods or chattels,—or with regard to other matters relative to or connected with the conduct of such suit or action, and the proceedings therein, shall be and all such powers are hereby vested in the Circuit Court, and the Judges by whom the same is to be held, and in the Officers of the said Court, respectively, and may be exercised by them (in so far as such powers and the provisions of law thereunto relating shall not be repugnant to or inconsistent with the provisions of this Act,) as fully and effectually, and under the same provisions and conditions of law, as if the several Acts, Ordinances and Laws conferring the said powers were herein recited and re-enacted, and in such manner as shall be most conformable to and consistent with the other enactments of this Act.

Judges and Officers, as in other Courts in like matters.

LXV. And be it enacted, That whenever any Judge holding the Circuit Court at any place, shall be lawfully recused in any suit or action, or shall be disqualified or rendered incompetent either by reason of interest, relationship or otherwise, from taking cognizance of the same, such Judge shall immediately upon such recusation being made, cause an entry thereof, or of the reasons of such disqualification or incompetence to be made on the record, and shall thereupon order that the record and proceedings in such suit or action be removed to the Superior Court in the District in which the said suit or action shall have been brought, there to be heard, tried, and finally determined, in the case of such disqualification or incompetence as above mentioned, at any Term or Sitting of the said Court, but according to the course and practice of the Circuit Court; but in the case of a recusation, the Superior Court shall at any such Term or Sitting, first proceed in a summary manner to determine whether such recusation be well founded, and if it should maintain the said recusation and adjudge the same to be well founded, proceedings shall thereupon be had to trial, judgment and execution, according to the course and practice of the Circuit Court; and if the Superior Court should dismiss the said recusation, the said suit or action shall be remitted to the Circuit Court in the Circuit in which it shall have been originally brought; and when, in any case of recusation, disqualification, or incompetence as aforesaid, an order shall have been made for the removal of the suit or action, as above required, the Clerk of the Circuit Court shall make an entry of such order in the Register thereof, and thereupon it shall be his duty forthwith to certify under his hand and the seal of the Court to the Superior Court in the proper District, and to cause to be transmitted to the said Court, the record and proceedings in the cause, which shall then be filed among the records of the said Court, and there shall continue to remain, even after judgment, as if the suit or action had been originally instituted in the said Court, except only in cases where a recusation shall have been made and dismissed as aforesaid, in which case the said record and proceedings shall be remitted as hereinbefore directed.

Provision when the Judge holding the Circuit Court shall be recused, or incompetent.

Recusation how tried.

If maintained.

If dismissed.

Removal of the suit, &c.

Remittal if dismissed.

Amount of judgment may be levied by instalments

Proviso as to total delay.

LXVI. And be it enacted, That the Circuit Court may, if the Judge holding the same shall think proper, order the sum for which judgment may have been given to be levied by instalments; Provided the delay allowed for the payment of the last instalment shall not exceed the space of three months from the day of the judgment; and provided also, that in default of payment of any one such instalment at the time it shall become due, execution may issue in satisfaction of the judgment, as if such delay had not been granted.

What shall be a sufficient certificate of costs in the Circuit Court.

LXVII. And be it enacted, That the certificate of the Clerk of the Circuit Court, that the costs in any suit or action or proceeding in such Court, amount to a sum named in such certificate (the sum allowed to witnesses having been previously approved by a Judge or Circuit Judge, as the case may be) shall be sufficient proof of the amount of such costs, provided a detailed bill or account of the same, signed by the said Clerk be annexed to such certificate, and execution may issue accordingly for such costs, without any other or further taxation thereof; nor shall it be necessary that any Writ of Execution issuing out of the Circuit Court be signed or endorsed by any Judge; any law, usage or custom to the contrary notwithstanding.

As to Writs of Execution.

Fees to be as per Tariff.

No others to be taken.

Penalty for taking other or greater fees.

Application of penalty.

LXVIII. And be it enacted, That in all suits, actions and proceedings in the Circuit Court, the fees to be specified in the Tariff then in force under this Act for the Circuit Court, shall be deemed and taken to be the lawful fees for the discharge of the several duties therein mentioned; and no other fees or emoluments shall be received or taken upon any pretence whatever for any act done or service performed under the authority of this Act; and if any Officer or person shall receive any other or greater fee or emolument than shall be specified in the said Tariff, for any of the duties aforesaid, he shall forfeit the sum of twenty pounds currency for each such offence, which penalty shall and may be recovered by civil action in the Circuit Court; and one half of such penalty shall belong to Her Majesty, Her Heirs and Successors, and the other half to the person who shall sue for the same.

Tariff to be posted openly.

Penalty for neglect.

LXIX. And be it enacted, That each of the Clerks of the Circuit Court shall cause to be continually and openly posted as well in his Office as in some conspicuous place in the Hall or apartment in which the Circuit Court shall be held, a fair and legible copy of the Tariff of Fees to be made by the Superior Court, and a notice of the penalty to which any person will become liable for receiving any other or greater fee than is set forth in the said Tariff, and in default of so doing, such Clerk shall be deemed guilty of a misdemeanor, and shall be liable to be punished accordingly.

Execution of judgments of the Circuit Court.

To whom the Writ shall be addressed, &c.

LXX. And be it enacted, That in every case where judgment shall be rendered in the Circuit Court, awarding or adjudging the payment of any sum of money, it shall and may be lawful for the Clerk of the Court, at the expiration of fifteen days after the rendering of the judgment, to issue under the Seal of the Court, a Writ of *Fieri Facias* against goods and chattels; which Writ shall be signed by him, and made returnable to the Court, and shall be directed to any of the Bailiffs of the Superior Court appointed for the District in which the judgment shall have been rendered, who is hereby authorized to levy the sum of money mentioned in such Writ, and the costs of execution, upon and from the goods and chattels of the party against whom such judgment shall have been rendered, which shall be found within the District, in the same manner, and according to the same rules and regulations of law, by and under which

which any Sheriff may levy money by virtue of a Writ of *Fieri Facias* issuing out of any of Her Majesty's Courts of Civil Jurisdiction in Lower-Canada; but the said Bailiff shall not be entitled, out of the monies so levied by him, to the Commission of two and a half per cent. in such case by law allowed to Sheriffs, or to any Commission whatever; and the said Writ, on or before the day fixed for the return thereof, shall be by the said Bailiff returned into the Circuit Court at the place where it shall have issued, with his proceedings thereon; Provided always, that for the satisfaction of any such judgment, execution shall (except in hypothecary actions) go only against the moveable property of the party condemned, in cases where the sum of money awarded by the judgment shall not exceed Ten pounds currency; and that in cases where the said sum of money so awarded shall exceed Ten pounds currency, execution shall go not only against the moveable, but also against the immoveable property of the party condemned, as it shall also in all hypothecary actions against the immoveable property declared by the judgment to be hypothecated for the payment of the sum for which such judgment shall have been rendered, whatever be the amount demanded or recovered in the suit; and when execution upon any such judgment shall be sued out against the immoveable property, a Writ of *Fieri Facias de Terris* shall be issued from the Circuit Court at the place where the judgment shall have been rendered, under the Seal of the said Court, and signed by the Clerk thereof, and such Writ shall be made returnable to the Superior Court in the District in which the judgment shall have been rendered, and shall be directed to the Sheriff of the said District, who is hereby authorized to levy the sum of money mentioned in such Writ, and the costs of execution, upon and from the immoveable property of the party against whom such judgment shall have been rendered, or upon and from the immoveable property declared by the judgment to be so hypothecated as aforesaid (as the case may be) in the manner and according to the rules and regulations of law, by and under which any Sheriff may levy money by virtue of a Writ of *Fieri Facias de Terris* issuing out of any of Her Majesty's Courts of Civil Jurisdiction in Lower-Canada; and the said Writ, on or before the day fixed for the return thereof, shall be by the said Sheriff returned into the Superior Court, with his proceedings thereupon, in the same manner as if such Writ had issued from the said Court; and all ulterior proceedings of what kind soever, consequent upon the issuing of such Writ, or necessary for the execution thereof, as well with regard to the Plaintiff and Defendant as with regard to other parties, who, according to law, may have intervened in the cause by opposition or otherwise, shall be had in the Superior Court, as effectually and in the same manner as if the cause in which such Writ shall have issued had been originally brought and determined in the said Court.

LXXI. And be it enacted, That when the party against whom judgment shall have been rendered in the Circuit Court, shall not have, within the District in which such judgment shall have been rendered, sufficient goods, chattels, lands or tenements to satisfy the said judgment in capital, interest, and costs, but shall have goods, chattels, lands or tenements within any other District in Lower-Canada, an *alias* Writ *de bonis* or *de terris*, as the case may be, shall issue from the Court at the place where the judgment shall have been rendered, under the Seal of the said Court, and signed by the Clerk thereof; which *alias* Writ shall be made returnable to the Court out of which it shall issue, if it be a Writ *de bonis*, and to the Superior Court in the District in which the judgment shall have been rendered, if it be a Writ *de terris*, and shall be directed to the Sheriff of such other District; and such *alias* Writ shall be executed in the latter District by the Sheriff thereof, as if it were a Writ of Execution issued from the Superior

No percentage to Bailiff.

Return of Writ.

Proviso as to cases under £10.

Above £10.

Hypothecary actions.

Execution against immoveables.

When returnable.

To whom addressed.

Return.

Ulterior proceedings, oppositions, &c.

When the property of the executee is in another District.

Writ where returnable.

How executed.

And returned. Superior Court, and in the same manner and according to the same rules and regulations of law; and the said Writ shall be, by the said last mentioned Sheriff, with his proceedings thereon, duly returned into the Court from which it shall have been issued, if it be a Writ *de bonis*, or into the Superior Court in the District in which the said judgment shall have been rendered, if it be a Writ *de terris*; and in the latter case, all ulterior proceedings of what kind soever consequent upon the issuing of such Writ *de terris*, or necessary for the execution thereof, as well with regard to the plaintiff and defendant, as with regard to other parties who, in due course of law, may have intervened in the cause by opposition or otherwise, shall be had in the Court last above mentioned, as effectually and in the same manner as if the cause in which such Writ shall have issued had been originally brought and determined in such last mentioned Court: Provided always, that in all cases where execution may issue in any hypothecary action against any immoveable property declared by the judgment to be hypothecated for the payment of the money to be levied under such execution, and *délaissé* under such judgment, and situate in a District other than that in which the Writ shall issue, such Writ shall be issued, executed and returned, and the subsequent proceedings relative to the same shall be had as herein provided with regard to *alias* Writs *de terris*, without its being necessary that any other Writ should previously issue.

Proviso as to property hypothecated and *délaissé*.

S. Court may call up the record in cases where lands are seized.

LXXII. And be it enacted, That when any such Writ *de terris*, issuing from the Circuit Court, shall have been, in the manner hereinbefore provided, returned into the Superior Court, it shall be lawful for the said last named Court, in its discretion, to direct the record of the cause in which such Writ of Execution shall have issued, to be removed into the Superior Court, and such removal shall be made on an order made by the said Court, and addressed to the Clerk of the Circuit Court at the place from which the record is to be removed, in the same manner and according to the same regulations as are hereinbefore provided for the removal of records in other cases into the Superior Court.

Oppositions to Writs *de bonis* where returnable.

LXXIII. And be it enacted, That if any opposition be made to the execution of any Writ *de bonis* issued from the Circuit Court, such opposition shall be made returnable to the Circuit Court at the place where the cause shall be pending, or at the place in the same District (or in the District of Gaspé, in the same County) where the Circuit Judge or Circuit Judges shall reside, if the Term at such last named place be nearer to the day on which the opposition shall have been allowed, there to be heard and determined; and when such opposition shall have been made returnable at such last mentioned place, the Court shall have power, if it deem it necessary, to order the removal of the record in the original suit or action from the place where the judgment was rendered to the place where the Circuit Judge or Judges shall reside, and such removal shall be made in the manner hereinbefore provided for the removal of records in similar cases; and the Bailiff charged with the execution of the Writ shall, immediately after he shall have been served with a true copy of the said opposition, return the same, and the Writ with his proceedings thereon, to the Court to which the opposition shall have been so made returnable; and when final judgment shall have been given on any such opposition, the Writ of Execution and all proceedings thereon, with a true copy of the said judgment, (and the record in the original suit or action, if it shall have been removed) shall be remitted to the Circuit Court at the place where the judgment was rendered, where further proceedings shall thereupon be had, as to law may appertain: Provided always, that the *fiat* or order to stay proceedings upon such

Removal of record in certain cases.

Duty of Bailiff receiving opposition.

Proceedings on final judgment.

Proviso as to *fiat* to stay

such Writ *de bonis*, in consequence of any such opposition, and to make such opposition returnable as aforesaid, may be made by any Circuit Judge, although he be not then within the limits of the Circuit, or by the Clerk of the Circuit Court, and to that effect such Circuit Judge or Clerk is hereby authorized to administer all oaths in such cases required by law.

proceedings on
oppositions.

LXXIV. And be it enacted, That the Circuit Court, and any Judge who might hold the same at any place, shall as well in Court as out of Court, in term or out of term or in vacation, have and may exercise within the said Circuits respectively, and concurrently with the Judges of the Superior Court, the same power and authority as are vested in the Superior Court and the Judges thereof, in what respects the Probate of Wills, the election and appointment of Tutors and Curators, and the taking of the counsel and opinion of relations and friends in cases where the same are by law required to be taken, the closing of inventories, attestation of accounts, *insinuations*, affixing and taking off seals of safe custody, and other acts of the same nature requiring dispatch; and the proceedings in all such cases shall form part of the records of the Circuit Court in the Circuit in which they shall be had: Provided always, that the appointments and orders made by any Judge under the authority of this section shall be liable to be set aside by the Superior Court in the District, in the manner and under the provisions of law, in and under which appointments and orders of like nature made by a single Judge might be set aside immediately before the time when this Act shall come fully into effect.

Certain pow-
ers vested in
Circuit Judges
as to matters
requiring dis-
patch.

Proviso: how
orders made in
such matters
may be set
aside.

LXXV. And be it enacted, That Clerks of the Circuit Court shall be appointed for the Montreal Circuit, the Quebec Circuit, the Three-Rivers Circuit, and the Sherbrooke Circuit, respectively; and from time to time, and as vacancies shall occur in the several Circuits in Lower-Canada, by death, resignation, removal from office or otherwise, Clerks of the Circuit Court shall be appointed in and for such Circuits, respectively; and every Clerk of the Circuit Court shall have power, by an instrument under his hand and seal, to appoint a Deputy, who shall act as such only in the case of the absence or sickness of such Clerk, and such instrument shall be entered at full length in the Register of the Court: Provided always, that the Clerk may at all times remove such Deputy and appoint another in his place.

Clerks of the
Circuit Court
to be appoint-
ed, &c.

May have
Deputies.

Proviso.

LXXVI. And be it enacted, That it shall be lawful for any person under the age of twenty-one years and above the age of fourteen years, to prosecute any suit in the proper Circuit Court, for any sum of money not exceeding six pounds five shillings, currency, which may be due to him for wages, in the same manner as if he were of full age; any law to the contrary notwithstanding.

Minors may
sue for wages
in C. Court.

LXXVII. And be it enacted, That the said Circuit Court shall be holden in every year at the times and places hereinafter appointed; and the local extent and limits of the jurisdiction of the said Circuit Court, sitting at such places respectively, shall, so far as regards the commencement of any suit, action or proceeding, be as follows, that is to say:

Places of
holding Cir-
cuit Courts,
and extent of
Circuits.

IN THE SAID DISTRICT OF QUEBEC:

In the City of Quebec, in and for the Circuit to be called the Quebec Circuit, on the last six juridical days of each month in the year, except August, and the said Circuit shall

Quebec Cir-
cuit.

shall include and consist of all that part of the said District of Quebec which shall not be included within any of the other Circuits hereinafter described ;

Rimouski
Circuit.

In the Parish of St. Germain, in and for the Circuit called and to be called the Rimouski Circuit, from the nineteenth to the twenty-eighth day, inclusively, of each of the months of January, May and September, which said Circuit doth and shall include and consist of the County of Rimouski, except the Parishes of Rivière-du-Loup and Cacona ;

Kamouraska
Circuit.

In the Parish of St. Louis de Kamouraska, in and for the Circuit called and to be called the Kamouraska Circuit, from the first to the tenth day, inclusively, of each of the months of February, June and October, which said Circuit doth and shall include and consist of the County of Kamouraska, and the Parishes of Rivière-du-Loup and Cacona ;

St. Thomas
Circuit.

In the Parish of St. Thomas, in and for the Circuit called and to be called the St. Thomas Circuit, from the thirteenth to the twenty-second day, inclusively, of each of the months of February, June and October, which said Circuit doth and shall include and consist of the County of L'Islet, including so much of the Parish of St. Pierre, Rivière du Sud, as may be within the County of Bellechasse and the Parishes of Berthier, St. Vallier, St. Michel and St. François, Rivière du Sud, in the County of Bellechasse ;

BeauceCircuit.

In the Parish of Ste. Marie, Nouvelle Beauce, in and for the Circuit called and to be called the Beauce Circuit, from the first to the tenth day, inclusively, of each of the months of March, July and November, which said Circuit doth and shall include and consist of the County of Dorchester, (except the Seigniory of Lauzon) ;

Leeds Circuit.

In the Township of Leeds, in and for the Circuit called and to be called the Leeds Circuit, from the sixteenth to the twenty-fifth day of February, inclusively, from the nineteenth to the twenty-eighth of June, inclusively, and from the twentieth to the twenty-ninth of October, inclusively ; which said Circuit doth and shall include and consist of the County of Megantic, and the Parishes of St. Sylvester and St. Giles, in the County of Lotbinière ;

Lotbinière
Circuit.

In the Parish of Lotbinière in and for the Circuit called and to be called the Lotbinière Circuit, from the thirteenth to the twenty-second day, inclusively, of each of the months of March, July and November ; which said Circuit shall include and consist of the County of Lotbinière, except the Parishes of St. Sylvester and St. Giles ;

Portneuf Cir-
cuit.

In the Parish of Cap Santé, in and for the Circuit called and to be called the Portneuf Circuit, from the seventh to the sixteenth day, inclusively, of each of the months of January, May and September ; which said Circuit shall include and consist of the County of Portneuf ;

Saguenay
Circuit.

In the Parish of Les Eboulements, in and for the Circuit called and to be called the Saguenay Circuit, from the first to the tenth day, inclusively, of each of the months of March, July and October ; which said Circuit shall include and consist of that part of the County of Saguenay, which is bounded as follows, that is to say : on the west by the County of Montmorency, on the north by the parallel of the forty-eighth degree of north latitude,

latitude, from the County of Montmorency, until it meets the prolongation of the eastern line of the Township of St. Jean on the River Saguenay, and thence by the said prolongation and the said line, as far as the River Saguenay, and thence on the west by a line to be drawn astronomically north to the limits of the Province; on the north and on the east by the limits of the Province, and on the south-east by the River St. Lawrence, upwards from the limits of the Province to the County of Montmorency;

At the Village of Chicoutimi, in and for the Circuit to be called the Chicoutimi Circuit, on the last six juridical days of each of the months of January, February, May, June, September and November in each year; which said Circuit, shall include and consist of that part of the County of Saguenay, not hereinbefore included in the Saguenay Circuit, and those parts of the Counties of Quebec and Montmorency, respectively, which lie north of the parallel of the forty-eighth degree of north latitude.

Chicoutimi
Circuit.

IN THE SAID DISTRICT OF MONTREAL :

In the City of Montreal, in and for the Circuit to be called the Montreal Circuit, on the last six juridical days of each month in the year except August, and the said Circuit shall include and consist of all that part of the said District of Montreal which shall not be within any of the other Circuits hereinafter described;

Montreal Cir-
cuit.

In the Parish of Berthier, in and for the Circuit called and to be called the Berthier Circuit, from the twenty-first to the thirtieth day, inclusively, of each of the months of January, May and September; which said Circuit doth and shall include and consist of the County of Berthier, and all the Islands in the River St. Lawrence which lie within the County of Richelieu, except those on the south-side of the main or ship channel;

Berthier Cir-
cuit.

In the Parish of St. Pierre de l'Assomption, in and for the Circuit called and to be called the Assumption Circuit, from the first to the tenth day, inclusively, of each of the months of March, July and November; which said Circuit doth and shall include and consist of the County of Leinster, except the Parishes of Lachenaye, St. Henri de Mascouche and St. Lin;

L'Assomption
Circuit.

In the Parish of St. Louis de Terrebonne, in and for the Circuit called and to be called the Terrebonne Circuit, from the twelfth to the twenty-first day, inclusively, of each of the months of March, July and November; which said Circuit doth and shall include and consist of the County of Terrebonne, and the said Parishes of Lachenaye, St. Henri de Mascouche and St. Lin, in the County of Leinster;

Terrebonne
Circuit.

In the Parish of St. Benoit, in and for the Circuit called and to be called the Two Mountains Circuit, from the seventh to the sixteenth day inclusively, of each of the months of January, May and September; which said Circuit doth and shall include and consist of the County of Two Mountains, except Isle Bizarre;

Two Moun-
tains Circuit.

At the Village of Aylmer, in and for the Circuit called and to be called the Ottawa Circuit, from the twentieth to the twenty-ninth day inclusively, of each of the months of January, May and September; which said Circuit doth and shall include and consist of the County of Ottawa;

Ottawa Cir-
cuit.

In

Vaudreuil Circuit.

In the Parish of St. Michel de Vaudreuil, in and for the Circuit called and to be called the Vaudreuil Circuit, from the first to the tenth day inclusively, of each of the months of March, July and November, which said Circuit doth and shall include and consist of the County of Vaudreuil ;

Beauharnois Circuit.

In the Parish of Ste. Martine, in and for the Circuit called and to be called the Beauharnois Circuit, from the twelfth to the twenty-first day, inclusively, of each of the months of March, July and November ; which said Circuit doth and shall include and consist of the County of Beauharnois, except the Township of Hemmingford ;

St. John Circuit.

In the Parish of St. John the Evangelist, in and for the Circuit called and to be called the St. John's Circuit, from the tenth to the nineteenth day, inclusively, of each of the months of February, June and October ; which said Circuit doth and shall include and consist of the Seigniories of Lacolle and De Léry, and the Islands in the River Richelieu, lying wholly or partly opposite the same, and the Township of Sherrington, all in the County of Huntingdon, the Township of Hemmingford, in the County of Beauharnois, the Parishes of St. John the Evangelist and St. Luc, in the County of Chambly, and the Parish of Ste. Marguerite de Blairfindie, lying partly in the County of Chambly and partly in that of Huntingdon, the County of Missisquoi, except the Townships of Dunham and Sutton, and the County of Rouville, except the Parishes of St. Mathias, St. Hilaire and St. Jean Baptiste de Rouville ;

But see Cap. 39, correcting this Section.

Missisquoi Circuit.

At Nelsonville, in the Township of Dunham, in and for the Circuit called and to be called the Missisquoi Circuit, from the twenty-first to the thirtieth day inclusively, of each of the months of February, June and October ; which said Circuit doth and shall include and consist of the County of Shefford (except the Township of Milton,) of so much of the County of Stanstead as does not lie in the District of St. Francis, and of the Townships of Dunham, Stanbridge and Sutton, in the County of Missisquoi, and the Parishes of St. Armand East and St. Armand West ;

See Cap. 39.

St. Hyacinthe Circuit.

At the Village of St. Hyacinthe, in and for the Circuit called and to be called the St. Hyacinthe Circuit, from the tenth to the nineteenth day, inclusively, of each of the months of February, June and October ; which said Circuit doth and shall include and consist of the County of St Hyacinthe, the Township of Milton, in the County of Shefford, the Parishes of St. Charles and St. Barnabé, in the County of Richelieu, and the Parishes of St. Hilaire and St. Jean Baptiste de Rouville, in the County of Rouville ;

Richelieu Circuit.

In the Parish of St. Ours, in and for the Circuit called and to be called the Richelieu Circuit, from the twenty-first to the thirtieth day inclusively, of each of the months of February, June and October ; which said Circuit doth and shall include and consist of the County of Richelieu, (except the Parishes of St. Charles and St. Barnabé, and the Islands of the said County which lie in the River St. Lawrence, on the north-side of the main or ship channel,) and the Parishes of Contreccœur and St. Antoine, in the County of Verchères.

IN THE SAID DISTRICT OF THREE-RIVERS :

Three-Rivers Circuit.

At the Town of Three-Rivers, in and for the Circuit called and to be called the Three-Rivers Circuit, on the last six juridical days of the months of March, May, June, September,

September, November and December in each year ; and the said Circuit shall include and consist of all the said District of Three-Rivers.

IN THE SAID DISTRICT OF ST. FRANCIS :

At the Town of Sherbrooke, in and for the Circuit to be called the Sherbrooke Circuit, on the last six juridical days of the months of February, March, June, September and October, and on the first six juridical days of the month of December in each year ; and the said Circuit shall include and consist of all that part of the said District of St. Francis which shall not be within any of the other Circuits hereinafter described ;

Sherbrooke
Circuit.

At the Village of Richmond, in the Township of Shipton, in and for the Circuit called and to be called the Richmond Circuit, from the tenth to the nineteenth day, inclusively, of each of the months of March and September ; which said Circuit doth and shall include and consist of the Townships of Durham, Kingsey, Tingwick and Chester, in the County of Drummond, and the Townships of Shipton, Melbourne, Brompton and Windsor, in the County of Sherbrooke ;

Richmond
Circuit.

At Stanstead Plain, in the Township of Stanstead, in and for the Circuit called and to be called the Stanstead Circuit, from the fifteenth to the twenty-fourth day, inclusively, of each of the months of May and November ; which said Circuit doth and shall include and consist of the Townships of Stanstead, Barnston, Barford, and Hatley, and so much of the Township of Bolton as lies within the District of St. Francis.

Stanstead Cir-
cuit.

IN THE SAID DISTRICT OF GASPÉ :

At the places and times appointed for holding of the Circuit Courts in the said District, in and by the Act passed in the Seventh year of Her Majesty's Reign, and intituled, *An Act to establish the District of Gaspé, and to provide for the due administration of Justice therein*, or as may be provided for the holding of the Circuit Court therein, by any Act of the present Session amending the said Act : Provided always, that the Governor may by any Proclamation or Proclamations to be issued from time to time by and with the advice of the Executive Council, alter the times or any of the times of holding the Superior Court in any District or Districts, or the times or any of the times of holding the Circuit Court in any Circuit or Circuits (including those in the District of Gaspé) and may declare that such alteration shall take place from and after a time to be appointed in each case, in any such proclamation, and may in like manner again alter the times of holding such Courts or any of them when and so often as it shall appear to him that the public convenience and the due administration of justice shall require it : and from the time of the issuing of any such Proclamation, the Judges and Clerks of such Courts and all other persons concerned shall govern themselves as if the times thereby appointed for holding the same had been appointed for that purpose by this Act, and shall fix the Return Days of all Writs and Process which ought to be returned in Term accordingly ; and any Writ or Process which is only returnable in Term, and which shall before the issuing of any Proclamation or before it shall have been known to the Clerk or Judge of the Court, have been made returnable on some day which in consequence of such Proclamation will not be a day in Term on which the same can be returned, shall be returnable on the Return Day next after that on which it was made returnable : Provided always, that neither the number of times at

District of
Gaspé.

7 V. c. 17.

Proviso :
Governor in
Council may
alter the time
of holding
Terms of
Superior or
Circuit Court.

As to Returns
of Process in
certain cases.

Proviso :
Number and
which

length of
Terms not to
be altered.

Proviso as to
suits com-
menced at
places where
the Circuit
Court will not
be held after
this Act comes
into effect.

Transmission
of records, &c.

As to Returns
of Process is-
sued before
this Act comes
into effect and
returnable
after that time.

Its effect.

Changes in
the limits of
any Circuit
not to affect
pending suits.

Return days in
appealable and
non appealable
cases.

Power of
Judge to close
or prolong the
Term.

Proviso.
Clerk may re-
ceive returns,
&c. in certain
cases.

which the Circuit Court shall be held annually in any Circuit, nor the number of days included in the Terms shall be altered by any Proclamation under this Section: Provided also, that all actions, suits and proceedings commenced before the time when this Act shall come fully into effect in a Circuit Court held at any place at which after the said time the Circuit Court will not be held, shall be transmitted into the Circuit Court, and shall be continued and completed therein, at the place where the said Court shall be held for the Circuit in which the place of sitting of the Circuit Court in which they were commenced shall be included, as if they had been commenced therein; and all papers, writings, documents and proceedings in the Office of the Clerk of the Circuit Court at the place where no sittings of the Circuit Court are to be held under this Act, or in his custody, whether the same relate to any action, suit or proceeding therein then pending or completed before the time when this Act shall come fully into effect, shall forthwith after the said time be transmitted into the Circuit Court, and shall be kept at the Office of the Clerk of the said Court at the place where pending proceedings of the same Court are to be completed as aforesaid, and shall make part of the Records and Muniments of the Circuit Court at such place; and every Writ or Process issued before the time when this Act shall come fully into effect, out of the Circuit Court at any place where no sitting of the said Court will be held after the said time, and made returnable after the said time, shall be returned into the Circuit Court at the place where pending proceedings of the same Court are to be completed as aforesaid, and on the day on which it shall have been made returnable, unless it be in a non-appealable case, and such day shall happen not to be a Return Day at such place in non-appealable cases, and it shall then be returned on the Return Day for such cases which shall be next after the day on which it shall have been made returnable; and in either case it shall have the same and no other effect, as if it had issued from the Circuit Court, and had been made returnable on the day, and at the place on and at which it is to be returned.

LXXVIII. Provided always, and be it enacted, That no change made by this Act in the limits of any Circuit, shall affect any action, suit or proceeding commenced in any Circuit Court before the time when this Act shall come fully into effect, but the same, and all proceedings and matters incident thereto, whether before or after execution, shall be continued and dealt with as if the limits of the Circuit in which such action, suit or proceeding shall have been commenced, had not been changed or affected by this Act.

LXXIX. Provided always, and be it enacted, That for all appealable cases, every day in Term or in vacation not being a Sunday or Holy-day, shall be a Return Day, but the six first juridical days only of each Term shall be Return Days in non-appealable cases; and at the close of the sixth juridical day, or at any time thereafter, the Judge may, if there be no business before the Court, close the sitting thereof until the then next Term, or may, in his discretion, and if it be requisite to the dispatch of the business before the Court, prolong the Term until such business be dispatched, or his duty shall require his attendance at some other place; Provided also, that if by illness, accident or any other cause, the Judge by whom any Circuit Court ought to be holden shall not be present on the first or any other juridical day, being a Return Day in any Term, it shall be lawful for the Clerk of such Court to receive all Returns to be made on such day, in non-appealable cases, and to cause any defendant or party in any such case, summoned to appear on such day, to be called, and to enter his appearance, or record his default, notwithstanding the absence of the Judge.

LXXX. And be it enacted, That from and after the day to be appointed for that purpose in any Proclamation to be issued by the Governor appointing such day, and declaring that a proper Gaol hath been erected at Chicoutimi aforesaid in and for the Chicoutimi Circuit, General and Special Sessions of the Peace shall be held therein, the said General Sessions being held at such times as shall be appointed by the Governor in and by the Proclamation aforesaid, in like manner and with like powers and duties as in the several Districts of Lower-Canada respectively; and a Clerk of the Peace and other requisite officers may be appointed accordingly; and the Justices of the Peace for the District of Quebec shall be the Justices by whom such Sessions of the Peace shall be held, but the said Chicoutimi Circuit shall not be detached from the said District, except only with regard to such Sessions and matters cognizable thereat.

Sessions of the Peace, &c. to be held in Chicoutimi Circuit when a Gaol is erected.

Clerk of the Peace to be appointed. Who shall hold the Sessions, &c.

LXXXI. And be it enacted, That from and after the time when this Act shall come fully into effect, no Commissioners' Court shall be held in the City of Quebec or in the City of Montreal or in the town and parish of Three-Rivers under the Act passed in the Seventh year of Her Majesty's Reign, and intituled, *An Act to provide for the Summary Trial of Small Causes in Lower-Canada*, but that all actions, suits, and proceedings theretofore commenced in the Commissioners' Court at either of the said Cities, or town and parish of Three-Rivers, shall be transmitted into the Circuit Court, and be continued and completed therein, at the City or town in which the same were respectively commenced, as if they had been commenced therein, or the said Circuit Court were one and the same Court with the Commissioners' Court at such place; and all papers, writings, documents and proceedings in the office of the Clerk of the Commissioners' Court at either of the said Cities, or town and parish of Three-Rivers, or in his custody, whether the same relate to any action, suit or proceeding therein, then pending or completed before the time when this Act shall come fully into effect, shall forthwith after the said time, be transmitted into the Circuit Court, and shall be kept in the office of the Clerk of the said Court at the same place, and shall make part of the records and muniments of the said Court; and every Summons or Process issued before the time when this Act shall come fully into effect, out of the Commissioners' Court at either of the said Cities or town and parish of Three-Rivers respectively, and made returnable after the said time, shall be returned into the Circuit Court at the same place and on the day on which it shall have been made returnable, unless such day should happen not to be a return day at such place in non-appealable cases in the Circuit Court, and it shall then be returned on the return day for such cases, which shall be next after the day on which it shall have been made returnable, and in either case, it shall then have the same effect and no other, as if it had issued from the Circuit Court, and had been made returnable on such day and at such place.

No Commissioners' Court to be held in Quebec, Montreal or Three-Rivers.

7 V. c. 19.

But pending suits to be completed in the Circuit Court.

Papers and documents of Commissioners' Courts to be transmitted to Circuit Court.

As to Return of Process issued before this Act shall be in force.

LXXXII. And be it enacted, That whenever the jurisdiction of any Court or the right to appeal from any judgment of any Court, is dependent upon the amount in dispute, such amount shall be understood to be that demanded, and not that recovered, if they be different; but if the amount recovered be such that it might have been recovered in any inferior Court, the Plaintiff shall recover such costs only as he would have recovered if the suit had been brought in such inferior Court, unless the Court in which the suit is brought shall order otherwise.

Amount demanded to govern in certain cases.

Provision as to costs.

Mode of confessing judgment in appealable cases in any Court.

Judgment on such confession if accepted.

And in non-appealable cases.

Effect of a confession not accepted by the Plaintiff.

Facts alleged in pleadings and not denied, &c., to be deemed admitted.

As to costs of proving facts neither admitted or denied.

Rules of construction as to pleadings.

Court may allow amendment.

No form of action or of words to be requisite.

LXXXIII. And be it enacted, That any party desiring to confess judgment in any cause, either in the Superior Court, or in the Circuit Court, (except in non-appealable cases in the latter Court,) shall file an appearance therein, and may then file a confession of judgment in writing, signed by him, (or by an Attorney thereunto specially authorized by an authentic *Acte* to be filed with it,) and countersigned by his Attorney *ad litem*; and if the Plaintiff shall accept such confession, he may forthwith inscribe the case for judgment on the same, and the Prothonotary or Clerk shall thereupon draw up a judgment accordingly, which being signed by the Plaintiff or his Attorney *ad litem*, shall be held to be the judgment of the Court, and recorded and executed accordingly; and in non-appealable cases in the Circuit Court, Judgment may be confessed orally in open Court.

LXXXIV. And be it enacted, That any confession of judgment filed or made orally as aforesaid, and not accepted by the Plaintiff, shall, if such Plaintiff shall not, by the judgment in the cause, recover more than he would have obtained judgment for under such confession, have the same effect, with regard to all costs incurred after the filing or making of such confession as if it had been accepted by the Plaintiff at the time of the filing or making thereof, and in any such case the Defendant shall be entitled to recover from the Plaintiff such costs, incurred by him after the filing or making of such confession, as may be awarded to him by the Court in its discretion.

LXXXV. And be it enacted, That in any pleading in any contested civil case, every allegation of fact, the truth of which the opposite party shall not expressly deny or declare to be unknown to him, shall be held to be admitted by him; and the costs of proving any such allegation of fact or any document proved in evidence, shall always be in the discretion of the Court, so that the whole or any part of such costs may be awarded against a party denying or not admitting any fact or document which in the opinion of the Court he must have known to be true or genuine, whatever be the event of the case.

LXXXVI. And be it enacted, That to all allegations of fact in any pleading, the ordinary rules of legal construction shall apply, so that it shall be sufficient to support any pleading that the facts alleged in it agree sufficiently with those proved to maintain the conclusions of such pleading or some of them, and that the Court shall be of opinion that the opposite party could not have been misled by such pleading as to the real nature and effect of the facts intended to be therein alleged and to be proved under such pleading; and the Court may in its discretion, at any time before judgment, and on such conditions as it shall deem just, allow any pleading to be amended, so as to agree with the facts proved, if the Court shall be of opinion that the ends of justice will be promoted by allowing such amendment.

LXXXVII. And be it declared and enacted, That in civil cases no form of action or of words is or shall be necessary in any declaration, opposition or other pleading or paper, but the parties may and shall respectively state *bona fide*, and to the best of their belief, the real facts on which they intend to rely, and which they allege to be true and offer to prove, in plain and concise language, to the interpretation of which the rules of construction applicable to such language in the ordinary transactions of life do and shall apply, so that no allegation or statement may or shall be held to be insufficiently made, if it would be ordinarily understood to have the meaning intended by the party using it.

LXXXVIII.

LXXXVIII. And be it enacted, That no trial by Jury shall be allowed in any civil suit or action, wherein the sum of money or value of the thing demanded or in dispute shall not exceed twenty pounds currency, unless the same shall have been instituted before the time when this Act shall come fully into effect, and one of the parties thereto shall before the said time have declared his choice and option to have a trial by Jury therein.

No trial by Jury in cases under £20.

LXXXIX. And for the avoidance of doubts—Be it declared and enacted, That any party to any suit or action of a commercial nature may be examined on *faits et articles*, in the like manner as parties may be examined in other cases; any law touching the rules of evidence to be observed in such cases, to the contrary notwithstanding.

Faits et articles in commercial cases.

XC. And be it enacted, That if the day on which any thing is by this Act directed to be done, shall be a Sunday or Holy-day, then such thing shall and may be done with like effect on the next following juridical day.

As to Sundays and Holy-days.

XCI. And be it enacted, That the word "Sterling," in any Act or Ordinance relative to the administration of justice, and in force in Lower-Canada, shall, with regard to any suit or action commenced after the twentieth day of April, one thousand eight hundred and forty-four, or to be commenced after this Act shall come fully into effect, and with regard to all proceedings therein, be held to have the meaning assigned to the said word by the Act of the Legislature of this Province, passed in the Session held in the fourth and fifth years of Her Majesty's Reign, and intituled, *An Act to regulate the Currency of this Province*, that is to say: each pound sterling, in any sum mentioned in such Act or Ordinance, shall be held to be equal to one pound, four shillings and four pence, currency.

Word "Sterling" how to apply in judicature Acts.

XCII. And be it enacted, That it shall not be necessary that any *demande* in intervention should be allowed by any Court or any Judge, but such *demande* may be at once filed at the Office of the Prothonotary or Clerk of the Court, and the mere filing thereof shall stay proceedings in the case during three days; and if during that time it shall be served on the proper parties, and the return of such service shall be filed at the Office aforesaid, proceedings shall be had as in an action of the same nature; but if such return be not so filed, such *demande* in intervention shall be *ipso facto* null, and any party may demand and obtain from the Prothonotary or Clerk, *acte* of the non-filing of such return, and may file such *acte*, which shall have the same effect as a judgment pronouncing such nullity, and the parties may thereupon proceed as if such *demande* in intervention had never been filed.

Demande in intervention need not be allowed by a Judge, &c., but must be filed, &c.

Nullity for non-compliance with this section.

XCIII. And be it enacted, That if in any case, either in the Superior Court or in the Circuit Court, any Writ shall require to be executed by the Sheriffs of two or more Districts, or by a Bailiff in one District and by a Sheriff or Sheriffs in another or others, then such Writ shall be addressed to such Sheriff or Sheriffs, and to any Bailiff of the Superior Court, as the case may require, and as many originals shall be made as there may be Districts in which it is to be executed; but this shall not affect any provision herein made with regard to *alias* Writs.

Provision for Writs which are to be executed by several Officers.

XCIV. And be it enacted, That in any suit or action brought or to be brought against any person who shall have left his domicile in Lower-Canada, or against any person who shall have had no domicile in Lower-Canada, but shall have personal or real

As to suits against absentees.

real estate within the same, it shall be lawful for the plaintiff, if such person be not personally served with process, to summon and implead such person, by a Writ issued in the usual way out of the Superior Court, or out of the Circuit Court, in the District or Circuit wherein such person may have had his domicile, or where such property may be situate, and that upon the return of the Sheriff or Bailiff to the Writ, that the defendant cannot be found in the said District or Circuit, it shall be lawful for the Court, or for any Judge thereof in vacation, to order that the defendant shall by an advertisement to be twice inserted in the English language in any newspaper published in that language, and twice in the French language in any newspaper published in that language in Lower-Canada, (such newspapers to be designated by the Court or Judge) be notified to appear and answer to such suit or action within two months after the last insertion of such advertisement; and that upon the neglect of the defendant to appear and answer to such suit or action within the period aforesaid, it shall be lawful for the plaintiff to proceed to trial and judgment as in a case by default.

Advertisement
to be inserted
in newspapers.

Powers under
Lessors and
Lessees' Acts,
and by whom
to be exer-
cised.

Act of L. C. 3
W. 4. c. 1.
Ordinance L.
C. 2 V. (3) c.
47.

Proviso.

XCV. And be it enacted, That all the powers vested in any Judge or Judges of the Superior Court by virtue of this Act and of the Act of the Legislature of Lower-Canada passed in the Third year of the Reign of His late Majesty King William the Fourth, and intituled, *An Act to regulate the exercise of certain rights of Lessors and Lessees*, and the Ordinance of the Legislature of Lower-Canada, passed in the second year of Her Majesty's Reign, and intituled, *An Ordinance to amend and continue the Act to regulate certain rights of Lessors and Lessees*, shall be and are hereby vested in, and may be exercised by any one Judge of the Superior Court, or by any Circuit Judge, in Term or in Vacation, and an appeal shall lie from the judgment of any such Judge or Circuit Judge to the Court of Queen's Bench established by an Act of this Session, in the cases in which an appeal to the Provincial Court of Appeals is given in the said last mentioned Act: but nothing in this section shall be construed to prevent the Superior Court, or any two or more Judges thereof, sitting together, from exercising any of the said powers, if they shall in any case deem it expedient so to do.

How the privi-
lege of the
Lessor on
goods taken in
execution shall
be exercised.

Proviso: duty
of the Bailiff
receiving any
opposition.

XCVI. And be it declared and enacted, That in all cases of the taking of goods and chattels in execution by virtue of a Writ issuing out of any Court in Lower-Canada, wherein a Lessor may claim a privilege or lien for rent, it is not and shall not be lawful for such Lessor to prevent the sale of such goods and chattels by opposition, but it is and shall be lawful for him to deliver to or lodge with the Sheriff or the Bailiff who shall have seized such goods and chattels, his opposition *afin de conserver*, either before or after the sale, and if the same be so delivered or lodged before the sale, the Sheriff or Bailiff shall nevertheless proceed to the sale of the goods and chattels by him seized, and make his return thereof; and upon such return the Lessor shall have his privilege or lien upon the proceeds of the sale of such goods and chattels, and be collocated accordingly; any law, usage or custom to the contrary notwithstanding: Provided always, that when any such opposition or any other opposition *afin de conserver* upon monies levied by virtue of a Writ *de bonis* directed to a Bailiff, shall be delivered to and lodged with the Bailiff before he shall have paid the proceeds of the sale to the party suing out such Writ, it shall be the duty of the Bailiff forthwith to make his return of the said Writ according to law, and to pay over into the hands of the Clerk of the Court in which the case shall be pending the proceeds of the sale to abide the judgment of the Court.

XCVII. And be it enacted, That no recognizance to the Crown shall be estreated in the manner heretofore used, but the sum forfeited by the non-performance of the conditions of such recognizance, shall be recoverable with costs by action in any Court having jurisdiction in civil cases to the amount, at the suit of the Attorney-General or Solicitor-General, or other Officer or party authorized to sue for the Crown; and in any such action it shall be held that the party suing for the Crown is duly empowered so to do, and that the conditions of the recognizance were not performed, and that the sum therein mentioned is therefore due to the Crown, unless the Defendant shall prove the contrary.

Recognizances how to be enforced for the future.

XCVIII. And be it enacted, That all and every the powers and authorities which immediately before the time when this Act shall come fully into effect, shall be by law vested in the several Courts of Queen's Bench in the several Districts of Lower-Canada, and in the Chief Justices and the Justices thereof respectively, relating in any manner or way to the Writ of Habeas Corpus, as well in criminal as in civil cases, and to the awarding or issuing or return thereof, and to the hearing and determining in due course of law, of any question, issue or matter thence arising or incident thereto, shall be and the same are hereby vested as well in the Circuit Court, as in the Superior Court, (concurrently with the other Courts and Judges in whom like powers may by any Act of this Session be vested) and in each and every of the Judges of the said Superior Court and Circuit Court respectively, as well in term as in vacation; which said Judges shall respectively be subject and liable to the same penalty for denying in vacation time, any Writ or Writs of Habeas Corpus, as is by law provided for the denial of a Writ of Habeas Corpus in vacation time by any Judge or Justice, and the said penalty shall be recovered from the Judges of the Superior Court, and Circuit Court respectively, in the like cases and circumstances, and in the same manner as is by law provided with respect to any Judge or Justice.

Habeas Corpus powers vested in the S. Courts, and C. Court, and in the Judges thereof.

Penalty for denying the Writ in vacation.

XCIX. And be it enacted, That whenever under this Act any thing shall have been ordered by the Superior Court, or by the Circuit Court, to be done in any case or matter therein pending, by or before the Superior Court or the Circuit Court, or some Judge or officer thereof, in some District or Circuit other than that in which such case or matter is pending, then after the order shall have been four clear days in the hands of the Prothonotary or Clerk of the Court at the place where such thing is to be done, all parties may proceed as if the case or matter were pending there; and if any notice or paper require to be served on any party in relation to the thing so required to be done, it shall be held validly served if left for him at the office of such Prothonotary or Clerk, unless he shall previously have filed at the Office of that Officer, an Election of Domicile, where such service may be made, within one mile of the said Office, or unless personal service be required by law.

Provision as to service of notices, &c., when any thing is ordered to be done in a place other than that where the suit is pending.

C. And for the purpose of ensuring uniformity in the practice and proceedings of the Superior Court, and Circuit Court in the several Districts and Circuits in Lower-Canada: Be it enacted, That the Superior Court, or any six or more of the Judges thereof, shall and may (and it shall be their duty so to do within one year from the time when this Act shall come fully into effect,) agree upon, make and establish Tariffs of Fees for the Officers of the said Courts respectively, and the Counsel, Advocates and Attornies practising therein, and also such Rules of Practice as shall be requisite for regulating the due conduct of the causes, matters and business

S. Court or any six Judges, to make Tariffs and Rules of Practice for the said Court and for the C. Court.

How such
Tariffs and
Rules shall be
authenticated,
&c.

They may be
amended.

Proviso : such
Rules not to be
inconsistent
with any law.

Proviso : what
Tariffs and
Rules shall be
in force until
new ones be
made.

Exception ;
As to cases
over £20, in
C. Court.

Attornies prac-
tising in any
Circuit to elect
a domicile
there.

Who shall be
Commission-
ers for receiv-
ing affidavits
C. Court.

Prothonotaries
and Clerks not
to practise as
attornies, &c.

Bonds given
by them to con-
tinue in force.

business before the said Courts, respectively, or the Judges thereof, or any of them, and in Term or out of Term, and all process and proceedings therein or thereunto relating : and such Tariffs of Fees and Rules of Practice respectively, being signed by any six of the said Judges, shall, without further formality, and immediately upon the receipt thereof, or of a copy certified by the Prothonotary of the Superior Court having the custody of the original, be entered by the Prothonotaries and Clerks of the Superior Court, or of the Circuit Court, in the Registers of the said Courts respectively, and shall then have full force and effect in each District or Circuit in which they shall have been so registered, until they shall have been repealed or amended, as hereinafter mentioned, and such repeal or amendment shall have been registered as aforesaid ; and the Judges of the Superior Court, or any six or more of them, shall have full power and authority from time to time to repeal or amend the said Tariffs and Rules of Practice, or any part thereof ; and such repeal or amendment being signed by any six or more of the said Judges shall be registered as aforesaid by the proper Prothonotaries or Clerks, and shall have effect accordingly : Provided always, that no such Rule of Practice shall be contrary to or inconsistent with this Act, or any other Act or law in force in Lower-Canada, otherwise the same shall be void ; and provided also, that until such Tariffs, of Fees and Rules of Practice, respectively, shall be made and established as aforesaid, the Tariff of Fees and Rules of Practice in force in each District or Circuit immediately before the time when this Act shall come fully into effect, with regard to the Court of Queen's Bench, or Circuit Court therein, shall continue to be in force, and shall apply to the Superior Court, or Circuit Court and the proceedings therein, as far as regards such District or Circuit ; except that in all cases in the Circuit Court in which the sum or value of the thing in dispute shall exceed twenty pounds currency, the Tariff of Fees in force at the time aforesaid with regard to the same class of cases, in the Court of Queen's Bench in any District, shall be the Tariff for the Circuit Court in the same District until a Tariff shall be made for such cases under this Section.

CI. And be it enacted, That each Attorney practising in the Circuit Court in any Circuit, shall file in the Office of the Clerk of the Court for such Circuit, his election of a domicile within one mile of the place where the Court shall be held in such Circuit, or in default of his so doing, any notice, pleading or other paper in any case before the Court in such Circuit, shall be well served upon him if left for him at the Office of the Clerk of the Court for such Circuit.

CII. And be it enacted, That no Commissioners for receiving affidavits shall be appointed by the Circuit Court, but the Commissioners for receiving affidavits in the Superior Court, shall, in the Districts for which they shall have been respectively appointed, be Commissioners for receiving affidavits to be used in the Circuit Court, without any other appointment.

CIII. And be it enacted, That no Prothonotary or Clerk of any Circuit Court, shall during his continuance in office, nor shall his Deputy while performing the Duties of the Office, practise as an Advocate, Counsel or Attorney-at-law in Lower Canada.

CIV. And be it enacted, That the bonds given before this Act shall come fully into effect by the several Prothonotaries of the Court of Queen's Bench in Lower-Canada and the Clerks of the Circuit Courts therein, and their sureties for the due performance of

of the official duties of such Prothonotaries and Clerks respectively, shall notwithstanding this Act, and the change of their names of Office, and those of the Courts of which they are Officers, remain in full force and avail to all parties as if they had been given after this Act had come fully into effect, and for the due performance of the duties of the Office which such Prothonotary or Clerk shall hold by virtue of this Act, and for duly accounting for and paying all monies which shall have come into their hands respectively by virtue of such Offices respectively, as if such bonds respectively had been given under this Act and conditioned accordingly; and each Prothonotary of the Superior Court, and each Clerk of the Circuit Court to be appointed after this Act shall come fully into effect, shall within three months after his appointment, give security for the due performance of the duties of his Office and for duly accounting for and paying all monies which shall come into his hands by virtue of his Office, by a bond to be given by him jointly and severally with good and sufficient sureties, which bond shall stand and be as and for a security to the amount thereof, for the damages which may be sustained by any party, by reason of the negligence or misconduct of such Prothonotary or Clerk; and the amount for which such bond shall be given shall be as follows, that is to say: by the Prothonotary of the Superior Court, in the District of Montreal or of Quebec, and his sureties, in the sum of two thousand pounds currency: by the Prothonotary of the Superior Court, in the District of Three-Rivers or of St. Francis, Kamouraska or Ottawa, and his sureties, in the sum of one thousand pounds currency; by the joint Prothonotary of the Superior Court, in the District of Gaspé, and their sureties, in the sum of five hundred pounds currency; and by each Clerk of the Circuit Court, and his sureties, in the sum of two hundred and fifty pounds currency.

Prothonotaries and Clerks hereafter appointed to give security.

Amount of such security.

CV. And be it enacted, That the persons who immediately before the time when this Act shall come fully into effect, shall be Bailiffs of the Court of Queen's Bench for any District in Lower-Canada, shall without any new appointment become and be Bailiffs of the Superior Court, for the same District, and all bonds and securities which such persons may have respectively given for the due performance of the duties of their office as Bailiffs of the Court of Queen's Bench for such District, shall remain in full force notwithstanding this Act, and shall be held to be conditioned for the due performance of the duty of such persons respectively as Bailiffs of the Superior Court, and shall accordingly enure to the benefit of all parties damnified by the non-performance, mal-performance, or neglect of such duty, as if such bonds and security had been given after the coming of this Act fully into effect, and in the manner and form hereby required; but nothing herein contained shall prevent any such person from being removed from the office of Bailiff, as if he had been appointed under this Act; and such bond shall likewise, notwithstanding this Act, remain in full force with regard to all damages sustained by any person by reason of any thing done or neglected by such Bailiff before this Act shall come fully into effect, and such damages shall be recoverable accordingly.

Present Bailiffs continued in office.

Their security to remain in force.

They may be removed.

Bonds to avail as to past acts.

CVI. And be it enacted, That upon and after the establishment of the District of Kamouraska or of Ottawa, as the case may be, by proclamation as aforesaid, the Bailiffs of the Superior Court appointed for the District of Montreal, and resident within the then new District of Ottawa shall, without any new appointment or order, be Bailiffs of the Superior Court for the said New District of Ottawa, but not for the rest of the District of Montreal, and the Bailiffs of the Superior Court appointed for the

Who shall be Bailiffs in the new Districts when established.

District

District of Quebec, and resident within the then New District of Kamouraska shall be Bailiffs of the Superior Court for the said New District of Kamouraska, but not for the rest of the District of Quebec, until in either case, they shall have been removed from office.

Bailiffs to act only in their own District.

CVII. And be it enacted, That the Bailiffs of the Superior Court shall have power to act as such within the limits of the District for which they shall have been appointed for the service and execution of all Writs, Orders and Process issuing as well from the Superior Court as from the Circuit Court, and from all other Courts in Lower-Canada, which may lawfully be directed to a Bailiff; and such Bailiffs shall be removable by the Judges of the Superior Court at any term or sitting thereof, or by any Judge of the said Court, or by any Circuit Judge when holding the Circuit Court.

How removable.

Bailiffs hereafter appointed shall give security.

CVIII. And be it enacted, That every person who shall after this Act shall come fully into effect, be appointed a Bailiff of the Superior Court, shall, before acting as such, enter into a Bond with two good and sufficient sureties who shall justify their sufficiency to the satisfaction of the person before whom the Bond shall be given, unto Her Majesty, Her Heirs and Successors, in the penalty of one hundred pounds currency, conditioned for the due performance of the duties of the said office, and such Bond shall be taken before the Prothonotary of the Superior Court, for the District in which the Bailiff shall have been so appointed, and shall remain of record in the office of the said Prothonotary; and every copy of such Bond delivered by such Prothonotary under his hand, and the seal of the Court, shall be deemed and considered an authentic copy to all intents and purposes; and it shall be incumbent on the said Prothonotary and his Successors in office to inquire and ascertain when such sureties may die, or become insolvent, or resident out of Lower-Canada, (in any of which cases it shall be the express duty of the Bailiff to give notice of the fact to the Prothonotary for the District,) and in such case or cases to require the Bailiff to give other and further security as aforesaid: and every Bond so given shall stand and be as and for a security to the amount thereof, for the damages which may be sustained by any person or party by reason of the culpable negligence or misconduct of the Bailiff.

Copies of Bonds.

Duty of Prothonotary as to such security.

Effect of Bonds.

Bailiffs of S. Court to be Officers of the Circuit Court.

CIX. And be it enacted, That the Bailiffs of the Superior Court appointed for any District, shall be Bailiffs and Officers of the Circuit Court for the same District, without any other appointment, and shall be amenable to the Circuit Court as such Officers, and the security given by them shall extend and be applicable to all their acts or omissions as Bailiffs of the Circuit Court, as fully as to their acts or omissions as Bailiffs of the Superior Court; and the Sheriff of each District shall also be the Officer of the Circuit Court, and shall, within his District, obey the orders of the said Court in all matters pending before it, and the Clerk of the Circuit Court at any place shall be the Officer of the said Court, and shall within his Circuit obey the orders of the said Court, in what place soever such orders may be made and directed to such Sheriff or Clerk, and they shall be respectively amenable to the said Court accordingly.

And Sheriffs also.

Bailiffs not to be witnesses in certain cases.

CX. And be it enacted, That no Bailiff who shall have made the service of the Writ of Summons in any suit or action, shall be competent to be examined as a witness in support of the Plaintiff's demand in such suit or action, save and except as to what may relate to the service of such Writ of Summons.

CXI. And be it enacted, That if any Bailiff, or any officer of any Court acting under colour or pretence of the Process of such Court, shall be guilty of extortion or misconduct, or shall not duly pay or account for any money levied or received by him under the authority of this Act or of the Act hereinbefore repealed, it shall be lawful for the Superior Court or for any Judge or Circuit Judge holding the Circuit Court, if the party aggrieved shall think fit to complain to him, to inquire into such matter in a summary way, and for that purpose to summon and enforce the attendance of all necessary parties; and to make such order thereupon for the repayment of any sum of money extorted, or for the due payment of any money so levied or received as aforesaid, and for the payment of such costs to the party aggrieved as such Court, Judge or Circuit Judge shall think just; and in default of immediate payment of any sum of money so ordered to be paid by such Bailiff or by such officer, to commit the offender to the Common Gaol of the District, there to be detained until such payment be made in full. and the provisions of this section shall apply as well to any act of misconduct or neglect committed by any Bailiff before this Act shall come fully into effect, as after that time.

Punishment of Officers guilty of extortion or misconduct.

Court may enquire summarily into the facts, &c.

Imprisonment for non-compliance with the sentence.

CXII. And be it enacted, That the salary of each of the said Circuit Judges shall not exceed Five hundred and Fifty pounds per annum, and such salary shall be in lieu of all fees, emoluments, or allowances whatever, whether for travelling expenses or otherwise.

Salary of Circuit Judges.

CXII. And be it enacted, That the Interpretation Act shall apply to this Act; and that all the provisions thereof shall be liberally construed so as best to promote the attainment of justice in every case, and no construction shall be deemed right which shall leave any provision thereof without effect; and if there be any case in which, before this Act shall come fully into effect, a party would have had the means of enforcing or defending some just claim or right in some Court then existing, and no provision shall be found in this Act under which such claim or right can be enforced or maintained, such provision shall be made by the Rules of Practice to be made under this Act, and until it be so made no proceeding for enforcing or maintaining such claim or right which shall not be inconsistent with this Act, or some other Act of this Session or with the law, shall be held to be illegal or void.

Interpretation Act to apply, &c.

No case to be deemed omitted in this Act.

But to be met by Rules of practice.

CXIV. And be it enacted, That all the provisions and enactments of a certain Ordinance of the Legislature of Lower-Canada, passed in the fourth year of Her Majesty's Reign, and intituled, *An Ordinance to provide for the erection and establishment of Court Houses and Gaols in certain Judicial Districts in this Province*, shall, in so far as the same may not be inconsistent with or repugnant to the provisions of this Act, be applied to the Districts and Circuits established or confirmed by this Act, in the place and stead of the Judicial Districts in the said Ordinance mentioned.

Provisions of Ordinance 4. V. c. 20, to apply to Districts and Circuits under this Act.

CXV. And be it enacted, That the foregoing sections of this Act shall come into force and effect upon, from and after the day which shall be appointed for that purpose in any Proclamation to be issued by the Governor of this Province, by and with the advice of the Executive Council thereof, and not before, except in so far as it may be therein otherwise provided; and upon, from and after the said day, any Judge or Officer then appointed under this Act shall and may perform all or any of the duties and functions of his office, although the Court of which he may be a Judge or Officer may not have met or sat, since this Act shall have come fully into force and effect.

Commencement of the foregoing provisions of this Act.

Proviso.

SCHEDULE

SCHEDULE A.

Province of Canada, }
Circuit, } IN THE CIRCUIT COURT.

A. B. of &c. Plaintiff;
and
C. D. of &c. Defendant.

[L. S.] VICTORIA, by the Grace of GOD, of the United Kingdom of Great Britain and Ireland, QUEEN, Defender of the Faith :

To C. D., the Defendant above mentioned.

WHEREAS A. B., the Plaintiff aforesaid, demands of you the sum of currency, due by you to him for (*state sufficiently the cause of action*) which said sum you have (as he saith) refused to pay him. (*If the action be to recover a thing wrongfully detained, &c., vary the statement of the cause of action accordingly. If there be a declaration annexed, refer to it; and omitting the words after "the Plaintiff aforesaid," say, "hath, by his declaration hereunto annexed, made complaint against you in the manner therein set forth."*) And the Plaintiff prays judgment, accordingly.

You are therefore required to satisfy the *demande* of the said Plaintiff in this cause, with costs, or to appear in person or by your Attorney before our said Court, at the Court House, at () in the said Circuit, (at o'clock in the forenoon, *omit these words if the case be appealable*), on the day of instant (*or next*), to answer the said *demande*; otherwise judgment may be given against you by default.

In witness whereof, we have caused the Seal of our said Court to be hereunto affixed, at this day of in the year of our Lord, one thousand eight hundred and

E. F.
Clerk of the said Court for the said Circuit.

CAP. XXXIX.

An Act to correct an error in an Act of the present Session relative to the Judicature of Lower-Canada.

[30th May, 1849.]

Preamble.

WHEREAS a clerical error exists in the Act of the present Session hereinafter mentioned: For remedy thereof—Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that for and notwithstanding any thing in the Act passed in

Notwithstanding any thing in c. 38, no

in this present Session, and intituled, *An Act to amend the Laws relative to the Courts of Original Civil Jurisdiction in Lower-Canada*, no part of the County of Missisquoi shall be in the St. John's Circuit, but the whole of the said County shall be in the Missisquoi Circuit.

part of Missis-
quoi shall be
in the St.
John's Circuit.

CAP. XL.

An Act to amend the Law relative to the administration of Justice in Gaspé.

[30th May, 1849.]

WHEREAS by Acts of this Session, the present Courts of Queen's Bench (or King's Bench) and the Court of Appeals for Lower-Canada, will be abolished after the time when those Acts shall come fully into effect, and a Court of Queen's Bench will be established having jurisdiction in appeal and error in civil cases, and original jurisdiction in Criminal matters, and a Superior Court will be established having original jurisdiction in civil matters, and the several Circuit Courts in Lower-Canada will be united into one Court, the jurisdiction of the said three last mentioned Courts extending throughout all Lower-Canada; and whereas it is necessary so to amend the Act hereinafter mentioned, that its provisions may be consistent with those of the Acts aforesaid: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That so much of the Act passed in the seventh year of Her Majesty's Reign, and intituled, *An Act to establish the District of Gaspé, and to provide for the due administration of Justice therein*, as requires that the District Judges (who will be, and be called Circuit Judges under the Act hereinafter secondly mentioned,) shall respectively reside at the place directed in the Letters Patent appointing them, or that any case in which a District or Circuit Judge shall be a party or shall be recused shall be heard or determined by or before any other District or Circuit Judge, or that any Writ be tested in the name of any Judge, or that any Bailiff shall be hereafter appointed by the Circuit Court at any place, or as provides what days shall be return days in the Circuit Court at any place, or gives power to the Judge to close the Court at the end of the third juridicial day of any Term, or establishes a Court of Queen's Bench (or King's Bench) in the said District, or directs by what Judges or Justices the same shall be held, or in what manner Writs issuing out of the said Court shall be tested, or fixes the terms of the said Court or the return days for Suits and Process returnable therein, and so much of the said Act as may be inconsistent with this Act, or with the Act of this Session, intituled, *An Act to establish a Court having jurisdiction in Appeals and Criminal matters for Lower-Canada*, or with the Act of this Session, intituled, *An Act to amend the Laws relative to the Courts of Original Civil Jurisdiction in Lower-Canada*, or with any other Act of this Session, shall be, and so much of the said Act first above cited is hereby repealed.

Preamble.

Parts of the
Act 7 V. c. 17,
inconsistent
with this Act
or other Acts
of this session,
repealed.

Act of this
Session c. 37.
c. 38.

II. And be it enacted, That the Term of the Superior Court shall be holden in the District of Gaspé, at and during the time mentioned in the Act last aforesaid, by such number

By whom the
Terms of the
Superior

Court in
Gaspé shall
be holden.

number of Judges of the Superior Court or of the Circuit Court as shall be requisite to form a *Quorum* of the Superior Court, provided that not more than two of the Judges sitting in the said Court at any one time shall be Circuit Judges; and it shall be the duty of the Circuit Judges resident in the said District to assist in holding the said Term, if not prevented by sickness or other cause beyond their control.

Superior Court
in Gaspé to
have the pow-
ers of the
same Court in
other Districts
and also the
powers of the
Court of
Queen's
Bench on the
Crown side :

Who shall be
Clerks of the
Court.

Certain pro-
visions for con-
tinuance of
proceedings
and return of
Process in cri-
minal cases to
extend to the
S. Court in
Gaspé.

III. And be it enacted, That the Superior Court and the Judges thereof shall, in the District of Gaspé, have and exercise not only the jurisdiction, powers and authority of the Superior Court and of the Judges thereof in other Districts, but also, and subject to the like provisions of law in the exercise thereof, the jurisdiction, powers and authority of the Court of Queen's Bench (established by an Act of this Session) and of the Judges thereof, in Criminal matters or on the "Crown side," of the said Court; and the joint Prothonotaries of the Superior Court in the said District, shall be the joint Clerks of the Crown for the same, and shall as such be the Clerks as well of the Superior Court in the exercise of its jurisdiction, powers and authority last aforesaid, as of the said Court of Queen's Bench on the Crown side thereof, whenever any Term or Terms of the said last mentioned Court shall be holden in the said District under any Act of the Legislature, or any extraordinary Term of the said Court shall be holden in the said District, under the provisions of the Act secondly above cited; the provisions of which said Act relative to the continuance in the Court of Queen's Bench thereby established of proceedings of a criminal nature pending in any of the present Courts of Queen's Bench, when the said Act shall come into effect, and to the return of Process in such cases, are hereby declared to apply to like proceedings pending in the Court of Queen's Bench in the District of Gaspé, when this Act shall come into effect, and to Process in such cases, except only that such proceedings shall be continued in, and such Process shall be returnable into the Superior Court in the District of Gaspé.

Provisions of
7 V. c. 17, to
apply to the S.
Court and Cir-
cuit Court in
Gaspé, when
not inconsis-
tent with this
Act, &c.

IV. And be it enacted, That in so far as they may not be inconsistent with the provisions of this Act or of any Act of the present Session, the provisions of the Act first above cited and in part repealed, relative to the Court of Queen's Bench (or of King's Bench) therein mentioned, or to the Judges or Officers thereof, or to the Summoning of Jurors to attend the same, shall apply and extend to the Superior Court and to the Judges and Officers thereof, in the District of Gaspé, and the provisions of the said Act relative to Circuit Courts or to the Judges or Officers thereof, shall apply to the Circuit Court and to the Judges or Officers thereof in the said District.

Commence-
ment of this
Act.

V. And be it enacted, That the foregoing provisions of this Act shall have force and effect, upon, from and after the day which shall be appointed for that purpose in any proclamation to be issued by the Governor of this Province by and with the advice of the Executive Council thereof, and not before; and that the Interpretation Act shall apply to this Act.

C A P . X L I .

An Act to define the mode of proceeding before the Courts of Justice in Lower-Canada, in matters relating to the protection and regulation of Corporate rights and to Writs of Prerogative, and for other purposes therein mentioned.

[30th May, 1849.]

WHEREAS it is expedient to provide an easy and expeditious mode of proceeding before the Courts of Justice in Lower-Canada for the protection of Corporate rights, and for regulating the use and preventing the abuse of the same, and for preventing the usurpation of Corporate Offices, and for enforcing the performance of duties devolving upon persons holding such offices and upon Public Trustees and other Public Officers, Bodies and Boards, and in matters relating to Writs of Prerogative and other Writs: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That after this Act shall come into force, whenever any person shall usurp, intrude into or unlawfully hold or exercise any public office or any franchise within that part of this Province formerly constituting the Province of Lower-Canada, or any Office in any Corporation or other Public Body or Board, whether the same shall have been created or shall exist under or by virtue of any Statute or Ordinance, or under the Common Law of Lower-Canada, it shall be lawful for the Superior Court sitting in the District in which such usurpation or unlawful detention shall have occurred, or for any two or more Judges of such Court in vacation, upon a declaration or petition (*requête libellée*) presented by or in the name of any person who may be interested in such public office or franchise, or in such Corporation, Public Body or Board, supported by affidavit to the satisfaction of such Court or of such Judges, and complaining of such usurpation, intrusion or unlawful detention, to order the issuing of a Writ commanding the person complained of to be summoned to appear before the said Court, or the said Judges, to answer such declaration or petition (*requête libellée*,) upon such day as the said Court or the said Judges may think proper to fix: Provided however, that in all such cases the Writ of Summons shall be served on the person so complained of, by leaving a copy thereof and of the said declaration or petition (*requête libellée*,) either with himself in person or at his domicile, in the manner practised in ordinary actions, and that three full days at least shall intervene between the service of such Writ and the return of the same, if such service shall be made within five leagues from the Court House or other building where the party shall be so summoned to appear, and that not less than three days and an additional day for each five leagues which shall be found between the place where such service shall be made and such Court House or other building, shall intervene between such service and return.

Preamble.

Mode of proceeding against any person usurping or intruding into a Corporate office, &c.

Service of process and delay between service and return.

II. And be it enacted, That if the person so complained of, Defendant in such cause, shall appear on the day so fixed, he shall be held to plead specially to such declaration or petition (*requête libellée*) stating the authority under which he assumes to hold or exercise

Delay for Defendant to plead and Plaintiff to answer.

exercise such office or franchise within four days from the day on which he shall so appear, and the plaintiff shall be allowed three full days to answer or reply to such plea.

Delay for Plaintiff to adduce his evidence.

III. And be it enacted, That within three days from the filing of such answer or replication, the plaintiff shall proceed to adduce evidence in support of the allegations contained in his said declaration or petition (*requête libellée*,) which evidence or such part thereof as may consist of oral or *parole* testimony, shall be taken down in writing either before the said Court, or in the presence of any one of the Judges thereof (whether the proceedings be had in Term time or in Vacation,) in the manner in which evidence is now taken in ordinary cases at the *Enquête* Sittings of the Courts of Queen's Bench in Lower-Canada, and when the plaintiff shall have declared his evidence (*Enquête*) closed, the defendant shall, after a delay of two days, if any such delay be by him required or asked for, proceed to adduce such evidence as he may offer, and as may be admissible in support of his plea.

And for Defendant.

Plaintiff may adduce evidence in rebuttal.

IV. And be it enacted, That so soon as the defendant shall have declared his *Enquête* closed, the plaintiff may, if allowed by the said Court or the said Judges, adduce evidence in rebuttal, or if he do not adduce any such evidence in rebuttal, it shall be lawful either for such plaintiff or for such defendant to inscribe the cause for hearing on any day he may think proper to fix; of which inscription the opposite party shall have notice one full day at least previous to the day so fixed for such hearing, and the said Court or the said Judges shall after such hearing proceed with the least possible delay to render judgment in the premises; Provided however, that nothing hereinbefore contained shall prevent or be so construed as to prevent the defendant from acknowledging the usurpation complained of by a confession to be taken in the presence of the Court or of the said Judges, or either of the parties from demurring specially to the declaration or to the plea, or to the answer of his adversary, or from demanding a decision upon any objections as to any deficiency, insufficiency or informality, which he may have been advised to urge against the same or against any of the proceedings in such case, or the said Court or the said Judges from enlarging the time to plead or to adduce evidence in any such case, whenever the said Court or the said Judges may deem it advisable so to do for the more sure attainment of the ends of justice.

Inscription of the case.

Proviso: Defendant may confess; either party may demur, &c.

Default on non appearance of Defendant.

V. And be it enacted, That whenever the Defendant in any such case shall not appear upon the Day fixed as aforesaid, for the return of the said Writ of Summons, after having been duly called, a default shall be entered against him, and it shall be lawful for the Plaintiff on the following day to proceed to prove the allegations contained in his declaration or petition, (*requête libellée*,) in the manner hereinbefore provided, and to inscribe the case without further delay for judgment by default.

Inscription.

Plaintiff may in his Petition state the name of the person entitled to the office, &c.

Judgment in such case.

VI. And be it enacted, That in addition to the matters required to be set forth against the party who shall have so usurped, intruded into, or unlawfully detained any such office or franchise, the Plaintiff may also set forth in any such declaration or petition, (*requête libellée*,) the name of the person rightfully entitled to such office or franchise, with such averments as may be required to show his right thereto, and in every such case judgment shall be rendered upon the claim of the Defendant, and also upon the right of the party so averred to be entitled to such office or franchise, or only upon the claim of the Defendant, as justice shall require.

VII.

VII. And be it enacted, That whenever judgment shall be rendered in any such case, upon the right of the person so averred to be entitled to such office or franchise, and the same be in favour of such person, he shall be entitled, after taking the oath of office, and executing any official bond which may be required by law, to take upon himself the execution of such office, or the exercise of such franchise; and it shall be his duty immediately thereafter to demand of the Defendant in such case, all the keys, books, papers and insignia in the custody or within the power of such Defendant, belonging to the office or franchise from which he shall have been ousted, and if such Defendant shall refuse or neglect to deliver over any such keys, books, papers and insignia pursuant to such demand, or shall in any other way or manner wilfully obstruct such person so adjudged to be entitled to such office or franchise as aforesaid, with a view to prevent such person from taking upon him the execution of such office, or the exercise of such franchise, he shall be deemed guilty of a misdemeanor; and whenever such refusal or neglect shall occur in any such case, it shall be lawful for the said Court or the said Judges to order the Sheriff of the District to take possession of such keys, books, papers and insignia, and to deliver up the same so taken possession of, to the party entitled or adjudged to be entitled to such office or franchise as aforesaid.

If judgment be rendered in favor of any person averred to be entitled to office, he shall take upon himself the execution of such office.

VIII. And be it enacted, That after the time this Act shall come into force, whenever any Association or number of persons shall act within Lower-Canada as a Corporation, without having been legally incorporated, or without being recognized as such Corporation by the Common Law of Lower-Canada, and whenever any Corporation, Public Body or Board shall offend against any of the provisions of the Act or Acts creating, altering, renewing, or re-organizing such Corporation, Public Body or Board, or shall violate the provisions of any law in such manner as to forfeit its charter by mis-user,—and whenever any such Corporation, Public Body or Board shall have done or omitted any Act or Acts, the doing or omitting of which shall amount to a surrender of its corporate rights, privileges and franchises,—and whenever any such Corporation, Public Body or Board shall exercise any franchise or privilege not conferred on it by law, it shall be the duty of Her Majesty's Attorney-General in and for Lower-Canada for the time being, whenever he shall have good reason to believe that the same can be established by proof, in every case of public interest, and also in every other such case in which satisfactory security shall be given to indemnify the Government of this Province against all costs and expenses to be incurred by such proceeding, to apply for and on behalf of Her Majesty to the Superior Court sitting in the District in which the principal office or place of business of such persons so unlawfully associated together, or of such Corporation, Public Body or Board shall be, or to any two or more of the Judges of such Court in vacation, by an information, declaration or petition, (*requête libellée*,) supported by affidavit to the satisfaction of such Court or of such Judges, complaining of such contravention of the law, and praying for such order or judgment thereon as may be allowed or authorized by law, whereupon it shall be lawful for such Court or for such Judges, to order the issue of a Writ commanding the persons, Corporation, Public Body or Board so complained of, to be summoned to appear before the said Court or the said Judges, to answer such declaration or petition, (*requête libellée*,) upon such day as the said Court or the said Judges may think proper to fix, and the like proceedings shall be had upon such declaration or petition, (*requête libellée*,) and Writ of Summons, as to service, appearance, entering default, pleading, proof and all other matters, as are hereinbefore provided for the determination

Proceedings in cases where any association shall act as a Corporation without being legally incorporated.

Proviso as to
service of
Process.

Judgment in
such cases.

If Defendant
be found guilty
of usurping
any office, &c.,
judgment to be
rendered that
he be ousted.

Costs to De-
fendant if suc-
cessful.

Proceedings in
case any Cor-
poration shall
be found to
have forfeited
its Corporate
rights by mis-
user, &c.

Curator ap-
pointed: his
duties in dis-
posing of the
personal pro-
perty of the
Corporation.

Proviso:
Notice to
Creditors.

Proviso as to
real property.

determination of cases in which any person shall have usurped, intruded into or unlawfully detained any public office or franchise; Provided nevertheless, that the service of any such Writ of Summons and of any such declaration or petition, (*requête libellée*,) may be made by serving the same on such persons so unlawfully associated together, or on such Corporation, Public Body or Board, by leaving true copies of such Writ of Summons, and of such declaration or petition (*requête libellée*,) either with the Mayor, Chairman or other Chief Officer, or with the Secretary or Treasurer of such Association, Corporation, Public Body or Board, or in the case of a pretended Corporation with some one of the persons assuming to hold such office, or with any person of reasonable age, at the principal office or place of business of such (or of such pretended) Association, Corporation, Public Body or Board, and the said Court or the said Judges shall make and pronounce such orders, judgments and decisions in all such cases as to law and justice may appertain.

IX. And be it enacted, That whenever any Defendant shall be found or adjudged guilty of usurping or intruding into or unlawfully holding or exercising any office, franchise or privilege, judgment shall be rendered that such Defendant be ousted and altogether excluded from such office, franchise or privilege, and also that the Plaintiff or party complaining of such usurpation recover his costs against such Defendant: And it shall be lawful for the Court or the Judges rendering such judgment in its or their discretion to condemn such Defendant to pay a fine or penalty not exceeding one hundred pounds, which fine or penalty, when collected, shall be paid over to Her Majesty's Receiver-General of this Province for the time being: and whenever an action or complaint for any such alleged usurpation, intrusion or detention as aforesaid, shall be dismissed, the Defendant shall be entitled to recover costs against the Plaintiff or party so complaining.

X. And be it enacted, That whenever it shall be found or adjudged, that any Corporation, Public Body or Board has, by any mis-user, non-user or surrender, forfeited its corporate rights, privileges and franchises, judgment shall be rendered that such Corporation be ousted and altogether excluded from such corporate rights, privileges and franchises, and that the said Corporation, Public Body or Board be dissolved; and the Court or the Judges rendering such judgment shall thereupon appoint a Curator to and of the property and effects of such Corporation, Public Body or Board, whose duty it shall be, after having given security to the satisfaction of the said Court or of the said Judges for the due discharge thereof, to take possession of the said property and effects, to cause an Inventory thereof to be made in due form of law in the presence of one or more of the Members of such Corporation, Public Body or Board, and after having made such Inventory, to dispose, to the best advantage, of all the personal property which he may have so possessed himself of, and, after realizing the proceeds thereof, to cause the same to be distributed amongst the creditors of such Corporation, Public Body or Board, by the Superior Court sitting in the District in which the principal office or place of business of such Corporation, Public Body or Board shall have been at the time of the rendering of such Judgment: Provided that due notice be given to such creditors by at least three advertisements to be printed in at least two such public newspapers as the said Court may direct, of which advertisements the first shall be published at least two months previous to the day fixed and therein mentioned as the day on which such Curator shall apply to the said Court for the purpose of effecting such distribution: And provided also, that if there be any debts remaining

remaining due by such Corporation, Public Body or Board, the like proceedings shall be had for the discussion of the immoveable property belonging to such Corporation, Public Body or Board, and for the distribution of the proceeds thereof amongst its creditors, or for dividing the same amongst the parties entitled thereto, as may now by law be had and adopted in Lower-Canada, for the discussion, distribution or division of a vacant estate, or of the estate of an absentee to which a Curator has, or Curators have been appointed; and if there be no debts due by such Corporation, Public Body or Board, or if such debts be unknown to or be beyond the control of the Curator, then the Curator shall proceed to the sale of the immoveable property held by him in his said capacity, to the best and highest bidder, after having given due notice of such sale and of the time and place thereof, by three advertisements in English and French in the Canada Gazette, the first of which shall be published at least four, and not more than five months before such sale; and all sales of immoveable property made by any such Curator, after such notice duly given, shall have the same effect to all intents and purposes as sales made by Sheriffs or by *décrot forcé*; And provided also, that whenever judgment shall be rendered in any such case against any Corporation, Public Body or Board, or against any persons claiming to be a Corporation, the costs awarded by such judgment may be collected by execution, directed either against the property and effects of such Corporation, Public Body or Board, or of such persons claiming to be a Corporation, or against the private property of the Directors or other Officers of any such Corporation, Public Body or Board, or of such persons so claiming to be a Corporation aforesaid.

Effect of any sale.

Proviso as to enforcing the payment of costs.

XI. And be it enacted, That after this Act shall come into force, whenever any Corporation, Public Body or Board shall refuse or neglect to make any election, which by law such Corporation, Public Body or Board is or shall be required to make, or to receive to their functions such of its Members as shall have been legally chosen or elected, or restore to their functions such of its Members as shall have been removed without sufficient cause; and, whenever any person holding any office in any Corporation, Public Body or Board, or any public body whatsoever, or any Court of Inferior Jurisdiction, shall omit, neglect or refuse to perform any act or duty belonging to such office, or to such Court, or which the persons holding such office, is or shall be by law required or bound to perform; and, whenever any heir or representative of any Public Officer shall omit, neglect or refuse to do or perform any act which, by law, he may or shall be bound or required to do or perform as such heir or representative of such Public Officer; and in all cases in which a Writ of *Mandamus* will lie and may be legally issued in England, it shall be lawful for any person interested in such Corporation, Public Body or Board, or in the performance of any such act or duty, to apply to the Superior Court sitting in the District in which such Public Officer, heir or representative of a Public Officer, or Inferior Court shall be, or to two or more Judges of the said Court in vacation, for a Writ of *Mandamus* requiring and directing the Defendant, whether such Defendant be a natural person or a Corporation, Public Body or Board, to do and perform the act or duty which such Defendant may have so neglected or refused to do or perform, or show cause to the contrary on a day certain to be fixed for that purpose by such Court or by such Judges.

Proceedings when any Corporation, Inferior Court, &c, shall refuse to make any election required by law, or to do any thing it ought by law to do, &c.

Mandamus to shew cause to issue.

XII. And be it enacted, That every such application for any such Writ of *Mandamus* shall be made by a declaration or petition (*requête libellée*) supported by affidavit to the satisfaction of such Court or Justices, setting forth the facts of the case, whereupon it shall

Manner of making application for such *Mandamus*,

and proceedings thereupon.

shall be lawful for the said Court or the said Judges to issue such Writ of *Mandamus*, and the Defendant in any such case, whether such Defendant be a natural person, a Corporation or an Inferior Court, shall not be allowed to shew cause to such Writ of *Mandamus*, otherwise than by answering or pleading to such declaration or petition, (*requête libellée*) and such Defendant shall not be required to make any return of or upon any such Writ of *Mandamus*, but the same shall be returned by the Bailiff or other Officer who shall have served it upon such Defendant, with a Certificate under his oath of the time and place of service; and the like proceedings shall be had on all such applications for Writs of *Mandamus*, relative to service, appearance, entering of default, pleading, proof and all other matters, for the determination thereof, as are hereinbefore provided for the determination of cases in which any person shall have usurped, intruded into or unlawfully detained any public office or franchise, or in which any Corporation, Public Body or Board, shall have forfeited its Charter as aforesaid.

If Defendant answer to declaration or petition in such manner as to justify his conduct: and if the contrary.

XIII. And be it enacted, That if such Defendant shall answer or plead to such declaration or petition, (*requête libellée*) in such manner as to justify his conduct, the action or complaint shall be dismissed, and the Plaintiff shall be sentenced to pay costs, but if the answer shall be considered insufficient, either in law or in fact, or if the Defendant shall fail to appear, and the Plaintiff shall make due proof of the facts alleged by him, and the same shall be deemed sufficient, then the said Court or the said Judges shall issue a Peremptory Mandate, ordering and commanding the Defendant to do that which shall have been so demanded of him, and if such Defendant being a natural person do not obey such Peremptory Mandate of the said Court or the said Judges, a Warrant of Commitment shall issue, under which he shall be imprisoned in the Common Gaol of such District, there to remain until he shall have rendered obedience to and fulfilled the requirements of such Peremptory Mandate, and if such Defendant, being a Corporation, Public Body or Board, refuse to obey such Peremptory Mandate, it shall be lawful for the said Court or the said Judges to sentence such Corporation, Public Body or Board to pay a penalty not exceeding five hundred pounds, which penalty may be levied in the ordinary course of Law, out of the property, real and personal, of such Corporation, Public Body or Board.

Peremptory Mandate.

Penalty for non-obedience.

Default to elect Mayor, &c., not to operate dissolution of Corporation, &c.

XIV. And be it enacted, That if it shall happen that in any Corporation, Public Body or Board within Lower-Canada, no election shall be made of the Mayor, Aldermen, Councillors, Assessors, Trustees, Directors or other Officers of such Corporation, Public Body or Board, or if any such office or offices is or are now remaining vacant in consequence of such election not having taken place upon the day or within the time appointed by charter, law or usage for that purpose, or if such election being made, the same is or shall be void, or shall hereafter or afterwards be declared void by a competent Tribunal, such Corporation, Public Body or Board shall not thereby be, or be deemed or taken to be, dissolved or disabled from electing such Mayor, Aldermen, Councillors, Assessors, Trustees, Directors or other Officers for the future, but every such Corporation shall be adjudged, deemed and taken to be, and to have been, subsisting, and capable of electing such Officer or Officers to all intents and purposes; and in every such case it shall and may be lawful for the Superior Court sitting in the District in which the principal office or place of business of such Corporation, Public Body or Board shall be, or for two or more of the Judges of the said Court in vacation, to issue a Writ of *Mandamus* requiring the proper Officer, or in his absence such person

Powers of Superior Court in such case.

as the said Court or the said Judges may please to appoint, to proceed to the election of such Mayor, Aldermen, Councillors, Assessors, Trustees, Directors or other Officers, upon a day and hour, and at a place to be prescribed in such Writ of *Mandamus*, and to do every act to be done in order to such election, or to signify to the said Court or to the said Judges good cause to the contrary; and such Writ of *Mandamus* shall be applied for, and the like proceedings shall be had thereon, and for the determination thereof, as in the other cases provided for by this Act; and of the day and time appointed in and by such Writ of *Mandamus*, (if the same be obeyed without cause being shown against it, or in and by the Peremptory Mandate, if any such mandate shall have issued) for proceeding to such election, public notice in writing both in the French and English languages shall, by such person as the said Court or the said Judges shall appoint, be affixed at the door of at least one church in the City, Town, Village, Borough, Parish or Township in which the principal office or place of business of such Corporation shall be, or if there be no church, at one of the most public places therein, for the space of at least ten days before the day so prescribed, and in every such case, any other act or acts necessary to be done in order to such election shall be had, made and done at the time appointed in such Writ of *Mandamus* or in such Peremptory Mandate, and in such manner and form as the same ought to have been made upon the day, or within the time prescribed by the Charter, Act or Acts of Incorporation, or usage of such Corporation, Public Body or Board; and the Mayor, Aldermen, Councillors, Assessors, Trustees, Directors, or other Officers, so elected, shall have the same privileges, precedence, powers and authority in all respects, as if such Mayor, Aldermen, Councillors, Assessors, Trustees, Directors or other Officers had been elected on the day or within the time prescribed for such election by the Charter, Act or Acts of Incorporation, or usage of such Corporation, Public Body or Board: Provided always, that no such election, nor any act done in order thereunto, shall be valid unless as great a number of persons having right to be present at and vote therein, shall be present at the assembly holden for such purpose and concur therein, as would have been necessary to be present and concur in such election or act, in case the same had been made or done upon the day, or within the time appointed for that purpose by the Charter, Act or Acts of Incorporation or usage of such Corporation, Public Body or Board; saving only that the presence of the Officer, who, under such Charter, Act or Acts of Incorporation or usage, ought to preside at such election shall not be necessary; And provided also, that any Mayor, Alderman, Councillor, Assessor, Trustee, Director or other Officer of any such Corporation in which the election of a successor or successors to any such office or offices shall not have taken place at the time appointed by Charter, law or usage for that purpose, shall hold over and continue to act as such officer or officers until a successor or successors of such officer or officers shall have been duly elected under the authority of this Act.

Application for
Mandamus:
and proceed-
ings thereupon.

Proviso: and
to number of
electors pre-
sent, &c.

Proviso:
Officer in pos-
session to hold
over until elec-
tion of succes-
sor.

XV. And be it enacted, That in no case in which the rights of any Municipal Corporation are involved shall any witness be inadmissible from the fact of his being an elector entitled to vote in such Municipal Corporation.

Members of a
Corporation to
be admissible
as witnesses.

XVI. And be it enacted, That all Writs of *Certiorari* and of prohibition shall issue out of the Superior Court, and shall be applied for in the like manner as Writs of *Mandamus*, and the like proceedings shall be had thereon as to service, appearance, entering of default, pleading, proof and all other matters for the determination thereof, as

Mode of ob-
taining Writs
of *Certiorari*
or Prohibition.

on

Proviso as to
alias Writs,
&c.

Proviso as to
service.

Security not
to be requisite.

As to Writs of
appeal and
error in case
of the death of
any party.

And in the
case of unmar-
ried women or
widows marry-
ing again.

Several per-
sons.

Parties dying
after appeal or
error.

As to Writs of
scire facias,
for annulling
Letters Patent.

In what cases
they may
issue.

Mode of trial,
&c.

on applications for Writs of *Mandamus*; Provided always, that it shall not in any case be requisite to issue any *alias* Writ of *Certiorari*, but all orders which for the attainment of the ends of justice it may become necessary for the Court, or any two of the Judges thereof, to make subsequently to the issuing of the first Writ, shall be made by interlocutory or final judgment, as in ordinary cases; And provided also, that no special affidavit shall be required to establish the service of any writ, order, rule or judgment connected with any of the proceedings provided for by this Act, but the return of service made in due form by the Bailiff under his oath of office, shall in all cases be considered as evidence of the facts therein stated, unless the same be controverted in due course of law; nor shall it be requisite for the party applying for any such Writ to give security either for costs or otherwise.

XVII. And be it enacted, That all Writs of Error and of Appeal may be brought either by the party against whom the judgment complained of was rendered, or, in case of his death, by his executors or administrators, if the judgment was to recover any debt, damages or personal property, or by his heirs, devisees or assigns, (*ayants cause*) if the judgment was for the recovery of real estate or the possession thereof, or if the title to real estate was determined thereby.

XVIII. And be it enacted, That if a judgment be recovered against an unmarried woman or a widow, and she afterwards marry, a Writ of Error or of Appeal may be brought thereon by her and her husband jointly; and if a judgment shall have been obtained against several persons and one or more of them die, a Writ of Error or of Appeal may be brought thereon by the survivor or survivors; and if, after the issuing of any Writ of Error or of Appeal, whether the same shall have been issued before or after the passing of this Act, any of the parties to the judgment complained of die, or shall have died, the proceedings on such Writ of Error or Appeal may be continued by and between the survivors alone.

XIX. And be it enacted, That all Writs of *scire facias* shall issue out of the Superior Court, and it shall be lawful for the said Court to allow any such Writs to issue upon the information or petition of Her Majesty's Attorney-General or Solicitor-General or other Officer duly authorized in that behalf, for the purpose of vacating or annulling any Letters Patent granted by the Crown in the following cases:

Firstly. Where it shall be alleged that such Letters were obtained by means of some fraudulent suggestion or concealment of a material fact, made by the person to whom the same were issued or made with his consent or knowledge.

Secondly. Where it shall be alleged that such Letters Patent were issued through mistake, and in ignorance of some material fact.

Thirdly. When the patentee or those lawfully claiming under him shall have done or omitted any act, in violation of the terms and conditions upon which such Letters Patent were granted, or shall by any other means have forfeited the interest acquired under the same.

And all such informations or petitions shall be heard, tried and determined in the same manner as ordinary civil suits.

XX. And be it enacted, That an appeal shall lie to the Court of Queen's Bench sitting in appeal from all final judgments rendered by the Superior Court, in all cases provided for by this Act except in cases of *certiorari*.

Appeal given in all cases under this Act, except on *certiorari*.

XXI. And be it enacted, That all Acts and parts of Acts or provisions of law repugnant to or inconsistent with this Act, or which make any provision in any matter provided for by this Act other than such as is made by this Act, shall be and are hereby repealed.

Repeal of inconsistent enactments, &c.

XXII. And be it enacted, That the foregoing sections of this Act shall come into force and effect upon, from and after the day which shall be appointed for that purpose in any Proclamation to be issued by the Governor of this Province by and with the advice of the Executive Council thereof, and not before.

Commencement of this Act.

CAP. XLII.

An Act to abolish Imprisonment for Debt, and for the punishment of Fraudulent Debtors, in Lower-Canada, and for other purposes.

[30th May, 1849.]

WHEREAS Imprisonment for Debt, where fraud is not imputable to the Debtor, is not only demoralizing in its tendency, but is as detrimental to the true interests of the creditor as it is inconsistent with that forbearance and humane regard to the misfortunes of others which should always characterise the legislation of every Christian country; And whereas it is desirable to soften the rigor of the laws affecting the relation between Debtor and Creditor, as far as a due regard to the interests of commerce will permit: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled: *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the passing of this Act, no priest or minister of any religious denomination whatsoever, no person of the age of seventy years or upwards, and no female, shall be arrested or held to bail by reason of any debt, or by reason of any other cause of civil action or suit whatsoever; and that no person shall be arrested or held to bail or detained in custody upon any cause of civil action arising or which may have arisen in any foreign country, or in any civil suit where the cause of action shall not amount to ten pounds of lawful money of this Province; and no Writ of *capias ad satisfaciendum* or other execution against the person, shall issue or be allowed after the passing of this Act.

Preamble.

Imprisonment for Debt not to be allowable in certain cases.

II. And be it enacted, That it shall not be lawful for the plaintiff in any civil suit or action to proceed to arrest the body of the defendant, or detain him in custody, unless an affidavit be made, in the manner provided by law, by such plaintiff, his book-keeper, clerk or legal attorney, that the defendant is personally indebted to the plaintiff in a sum amounting to or exceeding ten pounds of lawful money of this Province, and also that such plaintiff, his book-keeper or legal attorney, hath reason to believe, and doth verily

Arrest for debt to be allowable only on certain conditions.

Proviso: after arrest the defendant may be discharged if arrested improperly.

verily believe, upon grounds to be specially set forth in such affidavit, that the defendant is immediately about to leave the Province of Canada, with intent to defraud his creditors generally, or the plaintiff in particular, or that the defendant hath secreted or is about to secrete his property with such intent; Provided always, that it shall be lawful for the Court or any Judge of the Court whence any Process shall have issued to arrest any person, either in Term or in vacation, to order any such person to be discharged out of custody, if it shall be made to appear to him, on summary petition and satisfactory proof, either that the defendant is a priest or minister of any religious denomination, or is of the age of seventy years or upwards, or is a female, or that the cause of action arose in a foreign country, or does not amount to ten pounds of lawful money of this Province, or that there was not sufficient reason for the belief that the defendant was immediately about to leave the Province with fraudulent intent where that is the cause assigned for the arrest, or that the defendant had not secreted and was not about to secrete his property with such intent where that is the cause assigned for such arrest.

Defendant arrested on *ex. se.* may be released on giving security, to surrender himself when required.

III. And be it enacted, That any defendant arrested after the passing of this Act and confined in Gaol under and by virtue of any Writ of *capias ad respondendum*, shall at any time before the rendering of final judgment, if such Writ have been sued out before judgment, and at any time before the judgment declaring the arrest under such Writ valid, if such Writ have been sued out after judgment, be released from such arrest and confinement, if he give good and sufficient security to the satisfaction of the Court into which the process under which he shall have been arrested shall be returnable or returned, or of any Judge of such Court, that he, the defendant, will surrender himself into the custody of the Sheriff whenever required so to do by any order of such Court or of any one Judge thereof, made as hereinafter is provided, or within one month after the service of such order upon him or upon his sureties, and that, in default of his so doing, he will pay the plaintiff his debt, interest and costs; and the Court or Judge before whom such security shall be given, shall cause the sureties to justify upon oath, (if the plaintiff require it) and on security being given by the defendant as aforesaid, the Judge or Court before whom such security shall be given, shall order the defendant to be released from such arrest and confinement; and in like manner any defendant so arrested, but who shall have given bail to the Sheriff as hereinafter is provided, shall have a right on the return day of the Writ or at any time previously thereto, or within eight days thereafter, to give good and sufficient security before the Court into which the Process under which he shall have been arrested shall be returnable or returned, or before any Judge thereof, that he will surrender himself into the custody of the Sheriff whenever required so to do by any order of such Court, or of any Judge thereof made as hereinafter is provided, or within one month after the service of such order upon him or upon his sureties, and that in default of his so doing, he will pay the plaintiff his debt, interest and costs, and the sureties shall justify upon oath as to their sufficiency, if the plaintiff require it, and upon the security so offered being received and put in, the bail given to the Sheriff shall thereby be discharged.

Like provision as to a defendant who has given bail to the Sheriff.

Defendant having given security under this Act, to make a certain declaration if judgment be given against him

IV. And be it enacted, That if judgment for a sum of, or exceeding twenty pounds of lawful money of this Province, exclusive of interest from the service of Process and costs, be rendered against any defendant who shall so have been arrested and shall so have put in security as hereinbefore is provided, then such defendant shall be bound within thirty days from the rendering of such judgment, if the same remain then unsatisfied, to make and file in the office of the Prothonotary or Clerk of the Court a statement,

statement, under oath, making known of what property, real or personal, he is possessed, and where the same is situate, to the intent that the plaintiff may proceed and take the said property in execution, if he see fit, and also making known the names and addresses of all and every the creditors of such defendant, and the amount and nature (privileged, hypothecary or otherwise) of the claim or claims of every such creditor, and also a declaration that he is willing to abandon the property real and personal set forth in the said statement for the benefit of his creditors; and if the defendant neglect to file such statement as aforesaid, or if at any time within two years after the filing of such statement, the plaintiff in the suit shall establish, either by the examination of the defendant under oath or by other evidence, that when the statement was so filed the defendant was proprietor of any chattels, effects, lands or tenements, of the value of twenty pounds currency, wilfully omitted from the said statement, or that at any time between the institution of the plaintiff's action and the making of such statement on the part of the defendant, or within thirty days next preceding the institution of such action, the defendant secreted any part of his property with the intent of defrauding his creditors, or that the defendant has made any fraudulent mis-statement in respect of his creditors or their claims, or if the defendant fail to appear for the purpose of being examined in relation to such statement, at any time appointed for such examination by the Court or any Judge thereof, then the said Court, or in vacation any Judge thereof, shall order the defendant to be imprisoned in the Common Gaol of the District for such period not exceeding one year as such Court or Judge shall think reasonable, in punishment of the misconduct of which he or they shall adjudge such defendant to have been guilty; and if the defendant so ordered to be imprisoned shall not surrender himself or be surrendered for that purpose according to the requirements of the order in that behalf, then the parties who shall so have become security that the defendant would so surrender himself as aforesaid, shall forthwith be liable to pay to the said plaintiff the debt, interest and costs, in relation to which such security shall have been given, and all subsequent costs.

for £20 or upwards.

Consequences of default to make such declaration, or making it false, &c.

V. And be it enacted, That it shall be lawful for any defendant arrested as aforesaid, and confined in gaol, at any time either before or after judgment, to make and file a statement of his property real and personal, and of his creditors, such as is mentioned in the next preceding section of this Act, and to make and file with such statement a declaration that he is willing to abandon the property real and personal set forth in the said statement, for the benefit of his creditors; and if the plaintiff, within four months from the service upon him or upon his Attorney of a copy of such statement and declaration, shall establish either by the examination of the defendant under oath or by other evidence, that when the statement was so filed, the defendant was proprietor of any chattels, effects, lands or tenements of the value of twenty pounds currency, wilfully omitted from such statement, or that at any time between the institution of the plaintiff's action and the making of such statement on the part of the defendant, or within thirty days next preceding the institution of such action, the defendant secreted any part of his property with the intent of defrauding his creditors, or that the defendant has made any fraudulent mis-statement in respect of his creditors or their claims, then the said Court, or in vacation any Judge thereof, shall order the defendant to be imprisoned in the Common Gaol of the District for such period not exceeding one year, as such Court or Judge shall think reasonable, in punishment of the misconduct of which he or they shall adjudge the defendant to have been guilty; but if no omission such as aforesaid in the statement so made and filed by the defendant,

Defendant in gaol may make a like statement, &c.

Plaintiff may prove fraud, &c.

If no fraud, &c., be proved, be

defendant to be released.

Proviso: period for proving fraud, &c, may be extended.

Curator to be appointed to the property abandoned by the defendant.

Notice of appointment.

Opposition to the statement.

Effect if no fraud, &c, be proved.

be established, and if it be not established that the defendant has secreted any part of his property within the period aforesaid, and with the intent aforesaid, then it shall be lawful for the said Court, or in vacation for any Judge thereof, at the expiration of the said period of four months, to order the defendant to be discharged from his imprisonment: Provided always, that in any case where such omission or other misconduct shall have been formally alleged and complained of against such defendant before the expiration of the said term of four months, such Court or Judge, upon satisfactory cause shown, may extend the time during which proof relative to such complaint may be taken, for a period of not more than two months, and if during such extension of time such omission or other misconduct be established, such Court or Judge may order such defendant to be imprisoned in punishment thereof, in the same manner as if the same had been established during the said term of four months.

VI. And be it enacted, That when any defendant, arrested or imprisoned as aforesaid, shall have made and filed a statement of his property real and personal as aforesaid, and shall as aforesaid have declared himself willing to abandon the same for the benefit of his creditors, it shall be lawful for the Court or for any Judge thereof upon the application of the plaintiff, (if made within two months from the service of such statement and declaration upon the plaintiff or his Attorney, and after fifteen days' notice, in the form of the Schedule No. 1, subjoined to this Act, of the time and place of such application, previously given in the *Canada Gazette*.) to appoint, at the discretion of such Court or Judge, after hearing any parties claiming to be interested, a fit and proper person as Curator to the property so offered to be abandoned, and of such appointment notice shall by such Curator forthwith be given (in the form of the Schedule No. 2, subjoined to this Act) for the space of one month in the *Canada Gazette*, and also for any period which may be ordered by such Court or Judge, in any other newspaper or newspapers which such Court or Judge may see fit to name; and in case such Curator shall fail or delay to give such notice, then the same may be given either by the plaintiff or by the defendant; and during the said period of four months, within which the plaintiff shall have it in his power to adduce evidence with respect to any omissions such as aforesaid, in the statement so made and filed by the defendant, or with respect to the defendant having secreted any part of his property within the period and with the intent aforesaid, or made any fraudulent mis-statement in respect of his creditors or their claims, it shall also be in the power of any other creditor of such defendant to appear in the cause in relation to which such notice shall have been given, and to adduce evidence and examine the defendant for the same purpose, in the same manner and with the same effect as the plaintiff in such cause under this Act can adduce such evidence or examine the defendant; and whenever, as hereinbefore provided, a defendant shall have been arrested or imprisoned as aforesaid, and shall have declared his willingness to abandon all his property, real and personal, for the benefit of his creditors, and a Curator shall thereupon have been appointed to take charge of such property in pursuance of this Act, and public notice shall have been given as hereinbefore required of the appointment of such Curator within fifteen days after the same shall have been made, and the defendant shall not be adjudged guilty of any misconduct in the premises rendering him liable to punishment as hereinbefore is provided, such Defendant shall not thereafter be liable to be arrested or imprisoned or detained in prison at the suit of the plaintiff by whom he shall have been arrested, or at the suit of any other person, for or by reason of any cause of action arising before the making and filing of such statement and declaration by such defendant; and in case

case such defendant shall notwithstanding at any time afterwards be arrested for or by reason of any such cause of action, it shall be lawful for the Court or for any Judge of the Court whence the Process shall have issued for such arrest, upon a summary petition and satisfactory proof, to order such defendant to be discharged out of custody.

VII. And be it enacted, That the powers of the Curator so to be appointed, shall extend not only to the property real and personal comprehended in the statement to be so made and filed by such defendant, but also to any other property real or personal of the defendant, that ought to have been comprehended in such statement; and the real estate comprehended or that ought to have been comprehended in such statement, shall be sold upon such Curator in the ordinary course of law; and the personal property comprehended or that ought to have been comprehended in such statement shall be collected and got in by such Curator, and by him be paid over or distributed, or caused to be paid over or distributed also in the ordinary course of law.

Powers of the Curator extended to all property of the defendant.

VIII. And be it enacted, That in every case in which a judgment shall, either before or after the passing of this Act, have been rendered against a defendant, for a sum amounting to or exceeding twenty pounds of lawful money of this Province, exclusive of interest from the service of Process and costs, and for the satisfaction of which judgment a Writ of *capias ad satisfaciendum* might have been sued out according to the laws in force in Lower-Canada before the passing of this Act, such defendant shall, after the discussion of his apparent property real and personal in the ordinary course of law, be bound, within thirty days from personal service upon him of a certified copy of such judgment, together with a notice in writing (in the form of the Schedule No. 3, subjoined to this Act) demanding of him that he do make and file the statement hereinafter mentioned, to make and file in the Office of the Prothonotary or Clerk of the Court, a statement under oath, making known of what property, real or personal, he is possessed, and where the same is situate, to the intent that the plaintiff may proceed and take the said property in execution, if he see fit, and also making known the names and addresses of all and every the creditors of such defendant, and the amount and nature (privileged, hypothecary or otherwise) of the claim or claims of every such creditor; and if the defendant neglect to file such statement as aforesaid, or if at any time within two years after the filing of such statement, the plaintiff in the suit shall establish, either by the examination of the defendant under oath or by other evidence, that when the statement was so filed the defendant was proprietor of any chattels, effects, lands or tenements, of the value of twenty pounds currency, wilfully omitted from the said statement, or that at any time between the institution of the plaintiff's action and the making of such statement on the part of the defendant, or within thirty days next preceding the institution of such action, the defendant secreted any part of his property with the intent of defrauding his creditors, or that the defendant has made any fraudulent mis-statement in respect of his creditors or their claims, or if the defendant fail to appear for the purpose of being examined in relation to such statement, at any time appointed for such examination by the Court or any Judge thereof, then the said Court, or in vacation any Judge thereof, shall order the defendant to be imprisoned in the Common Gaol of the District, for such period not exceeding one year, as such Court or Judge shall think reasonable, in punishment of the misconduct of which he or they shall adjudge such defendant to have been guilty.

As to defendants against whom, but for this Act, a *ca. sa.* might have issued.

Punishment of defendant guilty of fraud, suppression, &c., in such statement.

IX. And be it enacted, That it shall be lawful for any defendant, who at the time of the passing of this Act shall be imprisoned under and by virtue of any Writ of *Capias ad*

Defendant arrested before this Act may

be released in certain cases.

ad respondendum or *Capias ad satisfaciendum*, to apply by summary petition to the Court in which the suit wherein such Writ issued is pending, or to any Judge thereof, for release from custody, on the ground that such defendant is a priest or minister of some religious denomination, or is of the age of seventy years or upwards, or is a female, or that the cause of the action arose in a foreign country, or does not amount to ten pounds of lawful money of this Province; and if it shall be made to appear to the said Court or to any Judge thereof, by satisfactory proof, that the application so made is well founded, then such Court or Judge shall forthwith order such defendant to be discharged from imprisonment.

Act to apply to persons in prison at the passing thereof.

X. And be it enacted, That all the provisions of this Act shall extend and apply to, and be held to extend and apply to, all persons who at the time of the passing of this Act or at any time thereafter, shall be in prison under and by virtue of any Writ of *Capias ad respondendum* or *Capias ad satisfaciendum*, as well to those who have surrendered or may surrender themselves in discharge of their bail, or who have been or may be surrendered in discharge of their bail, as to others.

This Act not to be construed as discharging any debt.

XI. And be it enacted, That nothing in this Act contained, or by this Act required or permitted to be done, shall have the effect of discharging any debt or debts due by any person or persons who shall be proceeded against, or who shall take any proceedings under the provisions of this Act; but all such debts shall continue in all respects unimpaired, excepting only that the debtor shall not be liable to be arrested or imprisoned in relation to such debt or debts, if expressly exempted from such liability by the provisions of the present Act.

Act not to prevent the putting in of special bail; &c.

Proviso.

XII. And be it enacted, That nothing in this Act contained shall prevent any person arrested under any Writ of *Capias ad respondendum*, from putting in special bail to the action, as permitted by the laws of Lower-Canada now in force, excepting only that such special bail shall not be received unless put in on the return day or at any time before the return day, or within the eight days next after the return day; Provided always, that it shall be in the power of the Court, upon special application and sufficient cause shewn, to extend the time for putting in such special bail; and it shall also be in the power of the Court, upon special application and sufficient cause shewn, to allow any defendant arrested, and who shall have given bail for his appearance at the return of the Writ, to put in security that he will surrender himself as provided by the third section of this Act, even after the period in that behalf prescribed by the said third section of this Act.

Doubts as to the form and effect of Bail to the Sheriff recited and removed.

XIII. And whereas doubts have been and are entertained, as to the form of the bail to be taken by the Sheriffs for the appearance of defendants arrested and holden to bail, and also as to the liability of the Sheriff taking such bail towards the plaintiff causing the defendant to be arrested, and it is necessary to remove such doubts: Be it therefore declared and enacted, That any bail-bond heretofore taken by any Sheriff for the appearance of any defendant arrested and holden to bail, subject to the condition that the defendant shall appear in Court on the return day of the action, and surrender himself, or be by his bail surrendered, into the custody of the Sheriff in discharge of his bail, or in default thereof shall pay to the Sheriff any sum of money mentioned in such bond, or subject to the condition that the defendant shall appear in Court on the return day of the action to answer the plaintiff in a plea as contained in the
 declaration

declaration to be annexed to the Writ under which the defendant shall so have been arrested, or subject to the condition that the defendant shall put in special bail, or surrender himself or be surrendered by his bail into the custody of the Sheriff in discharge of his bail, at or before any certain time or event, or in default thereof shall pay to the Sheriff any sum of money mentioned in the bond,—or subject to any other condition, as to the appearance or surrender of the defendant, or the giving of special bail or other security at or before any time or event, shall notwithstanding any supposed illegality or any irregularity or insufficiency in the condition set forth in such bond, be good and valid, if such bond be good and valid in other respects; and from and after the passing of this Act, the bond to be taken by any Sheriff for the appearance of any defendant arrested and holden to bail, shall and may be according to the form contained in the Schedule No. 4 subjoined to this Act; and it is hereby declared and enacted that no Sheriff is or shall be held liable, towards any plaintiff at whose suit any defendant shall at any time before the passing of this Act have been arrested and admitted to bail by such Sheriff, or towards any plaintiff at whose suit any defendant shall be arrested and admitted to bail after the passing of this Act, if the bail taken by such Sheriff were, at the time they were taken as such bail, solvent or reputed so to be, to the amount of the sum for which the bond entered into by such bail shall have been given.

XIV. And be it enacted, That nothing herein contained shall prevent any Sheriff from assigning any bail-bond by him to be taken under this Act, in the manner that bail-bonds heretofore taken by any Sheriff have been assignable.

Act not to prevent assignment of Bail-Bond.

XV. Provided always, and be it enacted, That nothing in this Act contained shall extend or be construed to extend to exempt from arrest or imprisonment, any person who may be indebted as tutor, curator, sequestrator depositary, sheriff, coroner, bailiff or other officer having charge of public monies, or who may be a *caution judiciaire*, or indebted for the purchase money of any lands or tenements, goods or chattels, sold and adjudged under the authority of justice by licitation, Sheriff's sale *décrot* or otherwise, or for the amount of any condemnation money for damages arising out of personal wrongs for which *contrainte par corps* may be now by law awarded.

Not to prevent *contrainte par corps*.

XVI. And be it enacted, That any person making a false declaration under oath in any of the matters aforesaid, shall be guilty of perjury and subject to punishment accordingly.

False swearing to be perjury.

XVII. And be it enacted, That this Act shall apply only to Lower-Canada, and that all Acts and provisions of law repugnant to or inconsistent with this Act or which make any provision in any matter provided for by this Act other than such as is made by this Act, shall be and are hereby repealed.

Act to apply only to L. C. Repeal of inconsistent Laws, &c.

SCHEDULES.

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SCHEDULE No. 1*(Referred to in the foregoing Act.)*

PROVINCE OF CANADA, }
 DISTRICT (or CIRCUIT, }
as the case may be) }
 OF

In the *(here state the Court in which the action in question is pending.)*

No. *(here state the number of the action.)*

A. B., Plaintiff;

vs.

C. D., Defendant.

PUBLIC NOTICE is hereby given, in pursuance of the provisions of the Act of the Parliament of Canada, passed in the _____ year of Her Majesty's Reign, and intituled, "An Act," *(here insert the title of this Act)*, that at the hour of _____ in the _____ noon of _____, the _____ day of _____ next *(or instant, as the case may be)*, or as soon after that hour as may be, at the Court House of _____ *(or; as the case may be,)* at the Chambers of the Judge, *(sufficiently describing the same)*, the said A. B., Plaintiff in this cause, will apply to *(naming the Court, and indicating whether the application is to be made to such Court, or to a Judge thereof)*, for the appointment of a fit and proper person to be Curator to the property, real and personal, of the said C. D., Defendant in this cause, who has made and filed in the Office of the Prothonotary *(or Clerk, as the case may be)* of the said Court, a statement under oath of the same, and also of his Creditors and their claims, together with a declaration that he is willing to abandon his property for the benefit of his Creditors—the whole as by the said Act required.

And all persons, creditors of the said C. D., are hereby notified then and there to attend, to make to the said Court *(or Judge, as the case may be)* such representation or statement in the premises as they may see fit to make.

Given at

, this

day of

, 18

A. B., Plaintiff.

SCHEDULE No. 2

(Referred to in the foregoing Act.)

PROVINCE OF CANADA, }
 DISTRICT (or CIRCUIT, }
 as the case may be }
 OF

In the *(here state the Court in which the action is pending.)*

No. *(here state the number of the action.)*

A. B., Plaintiff;

vs.

C. D., Defendant.

and

E. F., Curator to the property and effects of the said
 Defendant.

PUBLIC NOTICE is hereby given, in pursuance of the provisions of the Act of the Parliament of Canada passed in the _____ year of Her Majesty's Reign, and intituled, "An Act," *(here insert the title of this Act,)* that on the day of _____ instant *(or last past, as the case may be,)* the said E. F., of *(state here the address and calling of the Curator,)* was, by order of *(describe here the Court or Judge in question),* appointed to be Curator to the property and effects, of every kind, real and personal, of the said C. D., Defendant in this cause, abandoned by the said C. D. for the benefit of his Creditors—the whole as by the said Act provided.

And all persons, Creditors or Debtors of the said C. D., are hereby notified and required to govern themselves in the premises accordingly.

Given at _____, this _____ day of _____ 18 .
 E. F., Curator.

(Or A B., Plaintiff, or C. D., Defendant, as the case may be.)

SCHEDULE No. 3

(Referred to in the foregoing Act.)

To C. D. of *(state here the address and calling of the party,)* Defendant in the cause wherein the Judgment, an authentic copy whereof is hereunto prefixed, has been rendered.

TAKE NOTICE that the undersigned, A. B., Plaintiff in the said cause, hereby demands of you, under and by virtue of the _____ section of the Act of the Parliament of Canada, passed in the _____ year of Her Majesty's Reign, and intituled, "An Act,"

(*here insert the title of this Act*)—a copy of which section is hereunto subjoined for your further information in the premises—that, within thirty days from the personal service to be made upon you of the foregoing certified copy of the said Judgment, together with this Notice, you do make and file the statement in the said section prescribed, in the manner and under the penalties therein set forth.

Done at _____, this _____ day of _____, 18 ____ .
 (Here insert a copy of the said _____ section of this Act.)
 A. B., Plaintiff.

SCHEDULE No. 4

(*Referred to in the foregoing Act.*)

KNOW ALL MEN by these presents, that we, (*name here the Defendant and his bail,*) are held and firmly bound to (*name here the Sheriff,*) Sheriff of _____, in the Province of Canada, in the sum of (*state here the amount sworn to and endorsed on the Writ, with twenty-five per centum added for interest and costs,*) currency, to be paid to the said Sheriff, or his certain attorney, executors, administrators or assigns; for which payment, to be well and faithfully made, we bind ourselves, and each of us by himself for the whole and every part thereof, and the heirs, executors, and administrators of us, and every of us, firmly by these presents, sealed with our seals, and dated this _____ day of _____, in the _____ year of Our Sovereign Lady Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, and in the year of Our Lord one thousand eight hundred and _____

Whereas the above bounden (*name here the Defendant*) has been by the said Sheriff arrested under and by virtue of a certain Writ sued out of (*name here the Court out of which such Writ may have been sued,*) at the instance of (*name here the Plaintiff,*) and to the said Sheriff in due course of law delivered;

The condition of this obligation is such that if the said (*name here the Defendant*) do on (*state here the return day of the Writ,*) or at any time previously thereto, or within eight days thereafter, give good and sufficient security to the satisfaction of (*name here the Court into which the Writ may be returnable,*) or of any one of the Judges of the said Court, that he, the said (*name here the Defendant,*) will surrender himself into the custody of the said Sheriff whenever required so to do by any order of the said Court, or of any Judge thereof, made as by law provided, or in default thereof, will pay to the said (*name here the Plaintiff*) the debt for which he, the said (*name here Defendant,*) has been arrested as aforesaid, with interest and costs; or do on (*state here the return day of the Writ,*) or at any time previously thereto, or within eight days thereafter, put in special bail, as by law provided, to the action wherein the said Writ has been sued out as aforesaid, then this obligation shall be void and of no force, but otherwise shall stand in full force, vigor and effect.

Signed, sealed and delivered in presence of

CAP. XLIII.

An Act to remove all doubts as to the right of suing and defending Causes *in formâ pauperis* before the Courts of Law in Lower-Canada.

[30th May, 1849.]

WHEREAS doubts having arisen, whether the Courts of Law in Lower-Canada, and the several Justices thereof, are empowered to allow parties to sue and defend *in formâ pauperis*, as hath been practised heretofore in the said Courts ; And whereas it is unjust to refuse access to the Courts to suitors whose pecuniary means are insufficient to enable them to pay, in the first instance, the ordinary fees and charges of the officers of the said Courts : Be it therefore declared and enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby declared and enacted by the authority of the same, That the said Courts, and each of the Justices thereof, are and shall be empowered and authorized to permit parties to sue and defend causes *in formâ pauperis*, as hath been heretofore practised, whenever they shall be satisfied by affidavit that such parties, having a good cause of action or a good defence, are unable to establish the same in the ordinary course of law, for want of the necessary means to defray the fees and charges of the several officers of the said Courts whose services are required in the conduct of causes before such Courts.

Preamble.

The Courts and Justices may, in certain cases, allow parties to sue or defend *in formâ pauperis*.

II. And be it declared and enacted, That the said Courts have and shall have full power and authority, either by interlocutory or by final judgment, to dispauper parties to whom the said privilege of suing *in formâ pauperis* shall have been allowed, whenever law and justice shall require them to be so dispaupered.

Parties may be afterwards dispaupered for cause.

CAP. XLIV.

An Act for the limitation of Actions of Clerks of Courts of Justice and Attorneys *ad lites*, and of all other Officers of Justice, entitled to receive fees and costs.

[30th May, 1849.]

WHEREAS doubts have arisen with respect to the right of the Clerks of the several Courts of Justice in Lower-Canada, to sue for the recovery of sums due to them for fees or emoluments of office, after a certain time from the day when such fees or emoluments have become due ; and whereas by an Ordinance of the King of France, of the month of June in the year One thousand five hundred and ten, it is enacted and ordained, That all Actions of Clerks of Courts of Justice, for the recovery of sums due to them by virtue of their office, shall be subject to a prescription of three years ; and whereas the said Ordinance forms part of the Civil Law of Lower-Canada : Be it therefore declared

Preamble.

Ord. King of France, June 1510, cited.

Defendants in actions by Prothonotaries, for fees may plead three years' prescription.

declared and enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby declared and enacted by the authority of the same, That in all Actions brought or to be brought by the Prothonotary or Clerk of any Court of Justice in Lower-Canada, for the recovery of fees or emoluments of office, it has always been and shall be lawful for the defendant to plead three years' prescription to the demand in any such Action, dating from the date of the delivery or transmission of the papers, documents and orders which such Prothonotary or Clerk may have been required to prepare and deliver, by virtue of the duties of his office, or from the date at which it may have been lawful for such Clerk to demand the payment of any sum for the filing of actions, pleas or other judicial documents, on the filing of which a fee is granted to such Clerk, as provided by the said Ordinance, and such prescription shall be a bar (*fin de non recevoir*) to any such action.

Doubts recited.

Actions of Attornies *ad lites* for fees or disbursements also limited to five years, and of Sheriffs, &c. to three years.

II. And whereas doubts have arisen relative to the limitation of actions of Attornies *ad lites* against their clients, and of Sheriffs and other Officers of Justice for the drawing up, issuing or filing of any document, paper or order by them, or for rendering any other service in their official capacity, for which any fee or remuneration is allowed them—Be it therefore declared and enacted, That in all actions brought by Attornies *ad lites* against their clients for the recovery of fees or disbursements, accrued before the passing of this Act, it shall be lawful for the defendant to plead five years' prescription dating from the passing of this Act, and that in all actions brought by Attornies *ad lites* against their clients for the recovery of fees and disbursements which may accrue and grow due after the passing of this Act, it shall be lawful for the defendant to plead five years' prescription, dating from the day when final judgment shall have been rendered in the cause or proceeding in which the plaintiff shall have been entitled, as Attorney *ad lites* to the fees, and shall have made the disbursements for which any such action shall be brought; and that in all actions brought by Sheriffs and other Officers of Justice for the drawing up, issuing or filing of any document, paper or order by them, or for rendering any other service in their official capacity, for which any fee or remuneration is allowed them, it shall also be lawful for the defendant to plead three years' prescription, dating from the date of the rendering of such services, or of the delivery or filing of such documents, papers or orders; and such prescription shall be a bar (*fin de non recevoir*) to any such action; any law, usage or custom to the contrary notwithstanding.

C A P. X L V.

An Act to facilitate Actions against Persons Associated for Commercial Purposes, and against Unincorporated Companies.

[30th May, 1849.]

Preamble;

WHEREAS difficulties exist in bringing Actions against persons associated as Partners for trading purposes, or against unincorporated Companies or Societies formed for like purposes, by reason of the difficulty for parties doing business with such Partnerships,

Partnerships, Companies or Societies, to ascertain the names, surnames, residence and addition of all the persons so associated as aforesaid, and great expense and inconvenience are thereby incurred: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That all persons associated in Partnership for trading purposes in Lower-Canada, shall cause to be delivered to the Prothonotary of the Court of Civil Jurisdiction, in each District, and to the Registrar of each County, in which they shall carry on business, a declaration in writing, signed by the several members of the said Copartnership, when all such members shall, at the time of making the same, be in the said Province; and if any of the said members be absent at the time, then by the members present, in their own names and for their absent co-members, under their special authority to that effect, and containing the names, surnames, addition and residence of each and every Partner as aforesaid, and the name, style or firm under which they carry on or intend to carry on such business, and stating also the time during which the Partnership has existed, and declaring that the persons therein named are the only members of such Partnership; and such declaration shall be filed within Sixty days after the passing of this Act, if such Partnership shall have been or shall be formed before the time when this Act shall come into force and effect, and within Sixty days after the formation thereof if it shall be formed after the said Act shall come into force and effect; and a like declaration shall be filed in like manner when and so often as any change or alteration shall take place in the members of such Partnership, or in the name, style or firm under which they intend to carry on their business—under a penalty of Fifty pounds against each and every member of any Partnership with regard to which the requirements of this section shall not have been complied with, to be recovered before any Court having jurisdiction in civil cases to the amount of such penalty, by any person suing as well in his own behalf as on behalf of Her Majesty; and one moiety of such penalty shall belong to the Crown for the uses of the Province, and the other moiety to the party suing for the same, unless the suit be brought (as it may be) on behalf of the Crown only, in which case the whole of the penalty shall belong to Her Majesty for the uses aforesaid.

II. And be it enacted, That the said Prothonotary and Registrar shall enter each such declaration as aforesaid, in a book to be by them kept for that purpose, which shall be at all times, during office hours, open to the inspection of the public, gratuitously; and for registering each such declaration the Prothonotary and Registrar shall each be entitled to demand from the person delivering it to him the sum of Two shillings and Six pence if it shall not contain more than two hundred words, and at the rate of Six pence per hundred words, for all above the number of two hundred: and such declaration shall be in the form or to the effect of the Schedule to this Act annexed.

III. And be it enacted, That the allegations made in the declaration aforesaid, shall not be controvertible as against any party, by any person who shall have signed the same, nor as against any party not being a member of the Partnership, by any person who shall have signed the same or who was really a member of the Partnership therein mentioned

Partnerships in Lower-Canada to file a declaration as to who the partners are, &c.

When such declaration must be filed.

Also on change of partners.

Penalty.

Penalty how recovered and applied.

Prothonotary and Registrar to register such declaration. Fees.

Form of declaration.

Legal effect of the allegations in such declaration.

mentioned at the time such declaration was made; nor shall any such Signer or Partner be deemed to have ceased to be a Partner until a new declaration shall have been made and filed by him or his Copartners, or any of them, as aforesaid, stating such alteration in the Partnership; but nothing herein contained shall exempt from liability any person who, being a Partner, shall not have been mentioned in the declaration, and such person may, notwithstanding such omission, be sued jointly with the partners mentioned in the declaration, or they may be sued alone, and if judgment be recovered against them, any other Partner or Partners may be sued jointly or severally, in an action on the original cause of action, upon which such judgment was rendered—nor shall any thing in this Act be construed to affect the rights of any Partners with regard to each other, except that no such declaration as aforesaid shall be controverted by any signer thereof.

How actions may be brought against partnerships if no declaration be filed within sixty days from the passing of this Act.

Proviso: if the action be on an instrument.

Proviso as to service of process and execution against partnerships.

IV. And be it enacted, That after the expiration of sixty days from the passing of this Act, if any persons shall be or shall have been associated as Partners for the purposes of trade in Lower-Canada, and no declaration shall have been filed under this Act with regard to such Partnership, then any action which might be brought against all the members of the Partnership, may also be brought against any one or more of them, as carrying on or as having carried on trade, jointly with others, (without naming such others in the Writ or declaration) under the name and style of their said Copartnership firm; and if judgment be recovered against him or them, any other Partner or Partners may be sued jointly or severally on the original cause of action on which such judgment shall have been rendered: Provided always, that if any such action be founded on any obligation or instrument in writing in which all or any of the Partners bound by it shall be named, then all the Partners named therein shall be made parties to such action: Provided always, and be it declared and enacted that the service of any Summons or Process for any claim or demand upon any existing Copartnership liability at the office or place of business of any such existing Copartnership carrying on business within this Province, is and shall be held and deemed to have the same and equal effect as a service made upon the members of the said Copartnership, personally, and any judgment rendered against any member of such existing Copartnership, for a partnership debt or liability, shall and may be executory by Process of Execution against all and every the Partnership, Stock, Property and Effects in the same manner, and to the same extent as if such judgment had been rendered against such Copartnership.

Interpretation clause.

V. And be it enacted, That the word "Partnership" in this Act, shall include any unincorporated Society, Company, or Association for trading purposes; and the word "Action" shall include any proceeding at Law to which any such Partnership shall be a party.

Act to apply only to L. C.

VI. And be it enacted, That this Act shall apply only to Lower-Canada.

SCHEDULE.

PROVINCE OF CANADA, }
DISTRICT OF }

We, _____ of _____ in _____, (*Grocers*,) hereby certify that we have carried on and intend to carry on trade and business, as (*Grocers*,) at _____, in partnership under _____

under the name or firm of _____ (or, as the case may be,) I, (or we,) the undersigned, of _____, hereby certify that I (or we) have carried on and intend to carry on trade and business as _____, at _____, in partnership with C. D. of _____, E. F. of _____, and that the said partnership hath subsisted since the _____ day of _____, one thousand _____, and that we (or I or we, and the said C. D. and E. F.) are and have been since the said day, the only members of the said Partnership. Witness our (or any of our) hands at _____, this _____ day of _____, one thousand eight hundred and _____.

(Or as the case may be.)

CAP. XLVI.

An Act to incorporate *The Bar of Lower-Canada.*

[30th May, 1849.]

WHEREAS it is important and necessary for the right administration of justice, that the profession of Advocate, Barrister, Attorney, Solicitor and Proctor at Law in Lower-Canada, should be exercised only by persons capable of performing the duties thereof with honor and integrity; And whereas it is expedient for the more certain attainment of this important object, to establish more effectual regulations, with regard to the said profession, and the interests and rights of the members thereof: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the passing of this Act, all Advocates, Barristers, Attorneys, Solicitors and Proctors at Law in Lower-Canada, admitted as such at the time of the passing of this Act, shall be and form a Corporation under the name of *The Bar of Lower-Canada*; which said Corporation shall be divided into three sections, that is to say: one section for the District of Montreal, one for the District of Quebec, and one for the District of Three-Rivers; the Advocates, Barristers, Attorneys, Solicitors and Proctors at Law residing in the District of Saint Francis forming part of the section of the District of Three-Rivers; and those residing in the District of Gaspé forming part of the section of the District of Quebec.

Preamble.

Present Members of the Bar incorporated.

Three sections constituted.

As to St. Francis and Gaspé.

II. And be it enacted, That the said Corporation may sue and be sued in all Courts of Justice in Lower-Canada, may acquire moveable and immoveable property by purchase, donation, bequest or otherwise, to the value of five thousand pounds; and each of the said sections may sue and be sued separately in any Court of Justice in Lower-Canada, under the name of *The Bar of Lower-Canada, Section of the District of _____*, in all matters relating to each such section respectively, and may acquire moveable and immoveable property to the value of six thousand pounds; and all suits or actions brought by or against any of the said sections respectively, shall only affect the section or sections concerned therein; and in all actions against the said Corporation or against any of the said sections, service of Process at the domicile of the Secretary of the General Council hereinafter mentioned, or at the domicile of the Secretary of the Council

Corporate powers. Property, name &c.

Service of process.

Common Seal.

Council of any section, as the case may be, shall be valid; the said Corporation and each of the said sections shall have a Common Seal; on that of the Corporation shall be inscribed the words *Bar of Lower-Canada*, and on that of each of the said sections, the words *Bar of Lower-Canada, section of the District of* : Provided always, and it is hereby expressly enacted, That the members of the said Corporation shall not be individually liable for any debt contracted by the said Corporation or any of the said sections.

Proviso: non-liability.

Power to make By-laws.

III. And be it enacted, That the said Corporation shall have power to make all such By-laws, rules and orders, as it may deem necessary and proper for the interior discipline and honor of the members of the Bar, to regulate the admission of candidates for the profession to the study or practice of the Law, for the management of its property, and generally all By-laws, rules and orders of general interest to the said Corporation and the members thereof, in conformity with the provisions of this Act, and necessary to ensure its well working; which said By-laws, rules and orders, it shall be lawful for the said Corporation to change, alter, modify or repeal when and so often as it shall deem necessary: Provided always, that the said By-laws, rules and orders, shall not be contrary to the Laws of Lower-Canada, nor to the provisions of this Act.

Proviso.

Powers of the Corporation to be exercised by a General Council to be composed.

IV. And be it enacted, That all and every the powers conferred on the said Corporation under this Act, shall be exercised by a General Council, which shall be composed of all the officers and members forming the Councils of sections hereinafter mentioned, and that the said Councils together shall nominate and appoint from among themselves, by ballot, a President, a Secretary, and a Treasurer, who shall be the President, Secretary and Treasurer of the said General Council of the Corporation.

Officers of Councils of Sections.

V. And be it enacted, That the Councils of each section shall be composed of a *Bâtonnier*, a Syndic, a Treasurer, and a Secretary, and eight other members for each of the sections of the District of Quebec, and the District of Montreal, and of three other members for the section of the District of Three-Rivers; and the majority of each of the said Councils, respectively, shall form a *quorum*; and all questions submitted to the said Councils, except in the cases hereinafter provided for, shall be decided by a majority of the votes of the members present.

Quorum, &c.

Councils of Sections to cause By-laws, &c. of General Council to be executed. And may make By-laws.

VI. And be it enacted, That the said Councils of sections shall cause to be executed in their respective sections, and independently of each other, all and every the By-laws, rules and orders of the said General Council, and may make such By-laws, rules and orders as they may deem necessary for acquiring, disposing of and managing the property within their respective sections; for regulating the time and place of holding meetings of the members of the respective sections, and the mode of proceeding thereat, and generally all By-laws, rules and orders, relative to matters concerning such sections: Provided, that the said By-laws, rules or orders be not contrary to the provisions of this Act, nor to any of the By-laws, rules or orders passed by the General Council, nor to any law in force in Lower-Canada.

Proviso.

Powers of Councils of sections.

VII. And be it enacted, That each of the said Councils of Sections, shall in its respective Section, have power:

To maintain discipline, &c.

First. For the maintenance of the discipline and honor of the body, and as the importance of the case may require, to pronounce a censure or reprimand, through the *Bâtonnier* of such Section, against any member who shall become guilty of any breach of

of discipline, or of any action derogatory to the honor of the Bar; and it shall be lawful for such Council to deprive such member of the right of voting, and even of the right of assisting at the meetings of the Section, for any term not exceeding one year, and also, according to the nature of the offence, to punish such member by suspending him from his functions for any period not exceeding one year, subject to the approval of the General Council as hereinafter provided.

Secondly. To prevent and reconcile and settle all differences between members of the section, more especially all differences which might arise in professional matters.

To reconcile differences, &c.

Thirdly. To prevent, hear, reconcile and determine, all complaints and claims made by third parties against members of the Bar in the section, in matters connected with their professional duties.

To hear, &c. claims against Members, &c.

Fourthly. To admit candidates to the study or to the practice of their profession, and to decide upon the capacity and good morals of the said candidates.

To admit Students and Barristers.

Fifthly. To represent the members of the Bar, whenever the interests or the rights of the profession shall require it.

To represent Members.

VIII. And be it enacted, That the election of each of the Councils of the said sections shall be by ballot, and shall be held on the first day of May in each year, provided that such day be not a Sunday or *fête d'obligation*, and whenever the first day of May shall be a Sunday or *fête d'obligation*, the election shall be held on the next day thereafter not being a Sunday or *fête d'obligation*, and the said Council shall, immediately after such election, enter upon the execution of its functions: Provided, that no such election shall take place unless there be at least twenty members of the section present at the meeting held for either of the said sections of Quebec and Montreal, and eight members for the section for the District of Three-Rivers; and in case the said election shall not take place on the day appointed, for want of a *quorum* or for any other cause, such election shall be held at any other meeting specially called by the Secretary, or in his absence, by the Syndic, on the order of the *Bâtonnier* going out of office, or on the requisition of six members of the section: and the first election shall take place within six months after the passing of this Act, at a meeting to be held at the Court House of the District of the section for which such election shall take place, which said meeting shall be called by at least six members of the section, by public notice to be inserted in the *Canada Gazette*, at least fifteen days before such meeting, and by a public notice posted up at the Court House of the section where such meeting shall take place, eight days before such meeting.

Elections of Councils of Sections to be by ballot, and when.

Proviso: *Quorum* required for such elections.

First election.

IX. And be it enacted, That at the first meeting for the election of Councils of sections, the senior Advocate (reckoning by the date of his commission) then present, shall preside, and shall have the casting vote; and at all other meetings of sections the *Bâtonnier* shall preside, or in his absence, such other member as shall be chosen by the meeting.

Who shall preside at meetings of Councils of Sections.

X. And be it enacted, That meetings of sections shall be held every six months, in the Council-room of the said Section, on such days as shall be fixed by the By-laws of the said Councils respectively; and it shall be lawful to hold special meetings, to be called

When and where meetings shall be held.

called by the Secretary, or in his absence by the Syndic, on the order of the *Bâtonnier*, or on the requisition of six members of the section.

Meetings may be held at all times.

XI. And be it enacted, That it shall be lawful for the Council of each Section to hold meetings at all times, whenever circumstances shall require.

Meetings of general council for election of President, &c., of general Council.

XII. And be it enacted, That during the six months immediately following the annual elections of the said Councils of Sections, the said Councils shall meet together at least once, in Quebec or Montreal, alternately, as shall be determined by the *Bâtonniers* of the different sections, in order to elect by ballot from among themselves, a President, a Secretary and a Treasurer of the said General Council of the Corporation, and to make and pass the By-laws, rules and orders which by the third section of this Act they are authorized to make and pass; the *quorum* of the said General Council shall be fifteen, and all questions which shall arise at the said Meeting shall be determined by the majority of the Members present.

Quorum.

President and *Bâtonnier* to have casting vote—duties of *Bâtonniers*.

XIII. And be it enacted, That the President of the General Council shall have the casting vote at all meetings of the General Council, and the *Bâtonnier* of each section shall also have the casting vote at all meetings and debates, both of the Council and of the members of the section; it shall be lawful for the *Bâtonnier* of each section to call special and extraordinary meetings whenever he shall deem it expedient; he shall be vigilant in enforcing the observance of the By-laws, Rules and Orders, and in maintaining order at meetings; it shall be lawful for him to call to order such members as shall be out of order, and also to censure and reprimand such members.

Duty of Secretaries.

XIV. And be it enacted, That the Secretary of each section shall carefully record the deliberations and proceedings of the meetings of his section, and of the Council of his section, and shall keep Minutes thereof in a book to be kept for that purpose; he shall be keeper of the Archives of his section; he shall deliver all copies, certificates and other papers which may be required, and such copies so issued and certified by the Secretary, and sealed with the seal of the section, shall be admitted and received as authentic in all the Courts of Justice in Lower-Canada.

Duty of Treasurer.

XV. And be it enacted, That the Treasurer of each section shall have the keeping of the Common Fund of his section, shall receive and pay all sums the receipt or expenditure whereof shall be authorized, and shall render an account of his administration once in every year, at the meeting held for the election of the Council of his section.

Duties of Secretary and of Treasurer of General Council.

Evidence of Minutes.

XVI. And be it enacted, That the duties of the Secretary and of the Treasurer of the General Council shall, with respect to the said General Council and the Corporation, be analogous to those of the Secretary and Treasurer of each section in so far as relates to their section, and all copies of Minutes of the proceedings of the said General Council, certified by the Secretary of the said Council under the seal of the Corporation, shall be received as authentic in all Courts in this Province.

Provision in case of vacancies among officers.

XVII. And be it enacted, That in case of the absence, illness or death of any of the officers of the said Councils, their places shall be filled up as follows, to wit: the *Bâtonnier*, by the oldest member of the Council, reckoning by date of admission to the

the Profession, and the other officers shall be chosen temporarily by the said Council; and in case of the absence, illness or death of any of the members of the Council, it shall be lawful for the said Council to fill up their places in the same manner by the same number of other members to be chosen from among the members of the section.

XVIII. And be it enacted, That in all cases where a Member of the Bar shall be accused of any offence, before the Council of the section to which he shall belong, the accusation shall be decided by the absolute majority of the Members of the Council of the section, who shall declare *viva voce* whether the Member accused be guilty or not guilty; Provided always, that no judgment of any Council of the section suspending any Member from his functions shall have force or effect until ratified by the General Council at a meeting composed of at least one half of the Members of the General Council and by a vote of at least two-thirds of the Members present at such meeting of the General Council.

Accusation
against Mem-
bers how to be
decided.

Proviso.

Certain
judgments to
require confir-
mation.

XIX. And be it enacted, That the manner of proceeding on all accusations brought by the Syndic shall be as follows: whenever the Syndic shall receive on the oath of one or more credible persons, (which oath the said Syndic is hereby authorized and required to administer) a complaint against any of the Members of his section, affecting the honour, dignity, interests or duties of the Profession, the said Syndic shall submit the said complaint without delay, at a meeting of the Council specially called for that purpose, and if it be considered by the said Council, that the matter requires investigation, it shall order an accusation to be brought against such member; and the said Syndic shall draw up the act of accusation in the form of Schedule No. 2, hereunto annexed, which said Act shall be transmitted to the Secretary, who shall cause a copy thereof to be made, duly certified by him, and shall serve the said copy on the accused party, with an order in the name of the *Bâtonnier* of the section, requiring the said accused party to appear in person before the Council, on the day and at the hour and place mentioned in the said order, which said order shall be in the form of Schedule No. 3, hereunto annexed, and the service of the said act of accusation and of the said order to appear, shall be made by a messenger or by any other person appointed for that purpose, who shall deliver copies thereof to the accused party in person; and the said messenger or other person shall make a return on oath of such service, and the General Council shall determine by its By-laws the manner in which the proceedings relative to the said accusations shall be conducted before the said Councils of sections.

Manner of
proceeding on
accusations
brought by
Syndic.

Act of accusa-
tion and ser-
vice thereof.

XX. And be it enacted, That the Councils shall have the right to require witnesses to appear before them, by *Subpœnas* in the form of Schedule No. 4, hereto annexed, in the name of the *Bâtonnier*, under the seal of the section, and signed by the Secretary, and they shall have the same powers with respect to compelling the attendance of witnesses to give evidence as are exercised by the tribunals and Civil Courts in Lower-Canada; and the said *Subpœnas* or other orders shall be served in such manner as shall be determined by the By-laws of the said General Council.

Councils may
summon wit-
nesses.

XXI. And be it enacted, That it shall be lawful for the Secretary, or for any other member of the Council of the section, and they are hereby required to administer the said oath, and all other oaths required by this Act, to the said witnesses; and any person who shall be guilty of wilful perjury, in any case in which an oath is required to be taken by this Act, shall be liable to the penalties by law imposed for perjury.

Administra-
tion of oaths
to witnesses.

XXII.

Accused member may retain counsel.

XXII. And be it enacted, That it shall be lawful for any member accused as aforesaid to retain two counsel who shall not, however, be chosen from among the members of the Council of the section before which such accusation is brought.

Penalty on members of Council absent without cause.

XXIII. And be it enacted, That any member of the Council who shall absent himself from any of the meetings of the said Council without legitimate cause, shall incur a fine of five shillings, currency, for every such absence.

Committee for examining candidates as students or for admission.
Quorum and duties of Committee.

XXIV. And be it enacted, That it shall be lawful for each Council of a section to appoint a Committee of five of its members, three of whom shall form a *quorum*, and the said Committee may from time to time add to its number such members of the profession as it may think proper, to examine candidates for the study or practice of the profession; and it shall be the duty of the members so appointed, or of any three of them, or of those added to their number: *First*, To inquire into the acquirements, capacity and morals of every candidate for the study of the profession, and to make their report to the *Bâtonnier*, who, if the report be favorable, shall give such candidate a certificate of his admission as above mentioned, under his signature, countersigned by the Secretary and under the seal of the section, and if the said report be unfavorable, such candidate shall not be admitted to the study of the profession; any law, custom or usage to the contrary notwithstanding: Provided, that if such candidate shall be refused by the Council of any section, he may present himself to the General Council, who may admit or reject him as it shall deem expedient: *Secondly*, To examine every candidate for practice on his legal attainments and his qualifications, and to inquire into his morals and the regularity of his clerkship, and if such candidate shall be found capable and qualified, and shall have conformed to all of the provisions of this Act, the *Bâtonnier* of the section, on the report made to him in writing to that effect, shall grant the said candidate a Diploma, admitting him to the profession, which Diploma shall be in the form of the Schedule No. 1, hereto annexed, and shall be sufficient, without a Commission from the Governor, to authorize the party obtaining such Diploma, to practise as an Advocate, Barrister, Attorney, Solicitor and Proctor at Law, in all Courts of Justice in Lower-Canada, on the said candidate so admitted, taking an oath well and truly to perform his professional duties, which oath shall be administered by the Secretary of the section, who shall make a note thereof on the back of the Diploma; Provided that the said Diploma shall be enregistered at length, with the Council of the section from which the said Diploma shall have issued, and also with the General Council, and for such enregistration the party obtaining such Diploma, shall pay five shillings currency: provided that notice in writing shall be given by the candidate to the Secretary of the section, at least one month previous, that he intends to present himself to study, or to be admitted to practice, which notice shall be posted up by the Secretary in the place where the meetings of the section are generally held, and shall mention the day on which the examination of such candidate or aspirant shall take place.

Proviso.
Appeal to General Council.
Diploma to those admitted to practice.

Proviso:
Diploma to be registered.
Fee.

Proviso: Candidate to give notice.

Candidates to be admitted in the section in which they studied.

XXV. And be it enacted, That no Candidates for the profession shall be admitted to practice in any other section than that in which he shall have studied; and if he has studied partly in one section and partly in another, he shall be admitted only in the section in which he shall have terminated his clerkship; and he shall be required to produce a certificate of study of the profession from the Council of the section in which he shall have performed a part of his clerkship, which certificate shall be given to him by

by the *Bâtonnier* under the seal of the section; and every student, after the passing of this Act, shall be subject, previous to admission, to the formalities hereinabove prescribed.

XXVI. And be it enacted, That no person shall be admitted to the study of the profession, unless it shall appear to the Council or to such of its members as shall be appointed to inquire into the qualification of Candidates or to such members as shall be added to their number, as provided by the twenty-fourth section of this Act, that the candidate is sufficiently acquainted with the English or the French language and with the Latin language, and that he has received a liberal education; and such candidate, after having received the certificate mentioned in the said section, shall be required to cause his certificate to be registered in a register kept for that purpose by the Secretary, for which registration he shall pay five shillings currency, and five shillings currency for the certificate of registration; and the time of the clerkship of such student shall be reckoned only from the date of such registration.

Qualification of candidates to study.

Certificate to be registered.
Fee.

XXVII. And be it enacted, That from and after the passing of this Act, no person shall be admitted as an Advocate, Barrister, Attorney, Solicitor and Proctor at law, unless he shall have attained the full age of twenty-one years, and shall have studied regularly and without interruption under a notarial agreement as a clerk or student with a practising Advocate during five consecutive and whole years: Provided always, that if the said student shall have gone through a regular and complete course of study in any incorporated College or Seminary, four years of clerkship shall be sufficient; and if the said student shall have followed a regular and complete course of study in an incorporated College or Seminary, and also a regular and complete Course of Law in any incorporated College or Seminary, three years of clerkship shall be sufficient.

Qualification of Candidates for admission to practice.

Proviso:
Term of Clerkship shortened in certain cases.

XXVIII. And be it enacted, That nothing contained in the two preceding sections shall apply to persons who at the time of the passing of the present Act shall have commenced to study in order to be admitted into the profession, except so much thereof as provides that certain privileges with regard to the period of study shall be enjoyed by parties who have or shall have gone through certain courses of study therein mentioned and described, and that all such parties who have or shall have gone through such courses shall be entitled to admission to the profession at the expiration of the period of study therein mentioned.

Provision as to persons studying at the time of passing of this Act.

XXIX. And be it enacted, That the Secretary of each Section shall keep a book in which the names of all candidates for the profession who shall have caused their articles of clerkship to be registered with the date of such registration shall be entered according to date, and in which book he shall also enter, separately, the names of all the members of the profession in his section, with the date of their admission; and no person shall practise as an Advocate, Barrister, Attorney, Solicitor and Proctor at law in any Court of Justice in Lower-Canada unless his name shall be entered in the said book by the Secretary of the section in which such person shall intend practising.

Secretary to keep a book for names of candidates, &c.

XXX. And be it enacted, That all persons who shall be students at the time of the passing of this Act shall be required to cause their articles of clerkship to be enregistered within six months from the passing of this Act in the registers which shall be kept by the Secretary of each section, as provided by the twenty-sixth section of this

Students at the time of passing of this Act to register their articles within

Act;

six months, on pain, &c.

Act; the Secretary shall receive for this enregistration and for the certificate which he shall deliver thereof the remuneration mentioned in the said section; and it shall not be lawful for any student on presenting himself for admission to the profession to avail himself of the time during which he shall have studied under any articles of clerkship which shall not have been registered within six months after the passing of this Act; but in that case the clerkship of such student shall only be reckoned from the day on which he shall have had his articles of clerkship enregistered.

Notice of suspension of a member.

XXXI. And be it enacted, That in case of the suspension of a member of a section, the Secretary of such section shall be required to give notice thereof to the Secretaries of the other sections, and such member so suspended, shall not practise in any Court of Justice in Lower-Canada during the term of such suspension.

Fees payable to Secretary.

XXXII. And be it enacted, That the following fees shall be paid to the Secretary of each section, to wit: for each certificate of admission to the study of the Profession, One pound five shillings currency; for each Diploma, Three pounds ten shillings currency; which sums shall be handed over by the said Secretary to the Treasurer of the section, to be paid into the common fund of such section.

Subscription of members.

XXXIII. And be it enacted, That every member of the profession shall pay annually on the first of May, into the hands of the Treasurer, One pound currency, to be paid into the common fund of the section to which such member shall belong.

Common fund of Corporation.

XXXIV. And be it enacted, That the common fund of the Corporation or of the General Council, shall be formed of the sums which shall be paid therein by the Councils of the different sections out of the private funds of the said sections, as the said General Council shall judge necessary, to meet the expenses of the said Corporation or of the General Council; Provided always, that the sums which shall be so paid into the common fund by each of the said sections, shall be in proportion to the number of members in each of the said sections, and that the said General Council shall not in any case require the Councils of sections to pay respectively more than one fourth of their annual revenues into the general fund.

Proviso: contributions thereto limited.

Treasurers to make annual returns.

XXXV. And be it enacted, That the Treasurers of the different sections shall in every year, make an exact return of the receipts and expenditure of their respective sections; the Treasurer-General shall also in every year, make a similar return to the General Council, who shall transmit a copy thereof to the Council of each section.

Councils to examine accounts.

XXXVI. And be it enacted, That the Council of each section shall examine the accounts of its Treasurer, and no sum shall be expended without an order from the Council, signed by the *Bâtonnier*.

Fines under this Act how recoverable.

XXXVII. And be it enacted, That all fines and contributions imposed under the present Act, and in conformity with its provisions, shall be recoverable, with costs, before any Court of Justice having civil jurisdiction in the District in which the Defendant shall reside, on a simple certificate of the *Bâtonnier*, countersigned by the Secretary of the section: and it shall be sufficient, in the declaration for the recovery of such contributions or fines, to set forth the amount demanded, and to mention in a summary manner the period during which such fines have been incurred or such contributions

contributions have become due, without specially alleging the particular facts of the case.

XXXVIII. And be it enacted, That no omission on the part of the Councils of sections, in forming the General Council or in making the By-laws, Rules and Orders, as provided by the third section of this present Act, and no neglect on the part of any section to proceed to the election of its Council and Officers, shall prevent the other sections from proceeding under this Act to the election of their respective Councils or from carrying this law into operation, with respect to such sections as shall be organized, nor shall any such omission cause the dissolution of the Corporation nor of any such Council.

Certain omissions not to cause dissolution of Corporation.

XXXIX. And be it enacted, That the Ordinance of the late Province of Lower Canada, passed in the twenty-fifth year of the Reign of His Majesty George the Third, and intituled, *An Ordinance concerning Advocates, Attorneys, Solicitors and Notaries, and for the more easy collection of His Majesty's Revenues*, and the Act of the Legislature of the said Province, passed in the sixth year of the Reign of His late Majesty King William the Fourth, and intituled, *An Act to repeal certain parts of an Ordinance therein mentioned, concerning persons to be admitted to practise the Law, or to practise as Notaries in this Province*,—and all other laws contrary to this Act, shall be and are hereby repealed; Provided always, that all persons who are now students may be appointed Advocates, Attorneys and Proctors at Law in each District, under the said Acts hereby repealed, until the Councils shall be established under this Act.

Ordinance of Quebec, 25 G. 3, c. 4, and Act of L. C., 6 Wm 4 c. 10, repealed.

XL. And be it enacted, That this Act shall be a Public Act.

Public Act.

SCHEDULE No. 1

(*Referred to in the foregoing Act.*)

PROVINCE OF CANADA, }
DISTRICT OF }

To all whom these presents shall concern, Greeting :

We, the undersigned, *Bâtonnier* of the Bar of Lower-Canada, section of the District of _____, in conformity with the Provisions of the Provincial Statute, passed in the _____ year of the Reign of Her Majesty Queen Victoria, Chapter _____, intituled, *An Act to incorporate the Bar of Lower-Canada*; in pursuance of the Certificate to us delivered by three, (*or several, as the case may be,*) of the Examiners of the said section, dated the _____, whereby it appears that A. B., of _____, under the requirements of the said Act, after having served a regular clerkship, as prescribed by law, has undergone before them, on the _____ day of _____, the examination necessary to his admission to the order of Advocate; and that from such examination it appears that he is in all respects worthy and qualified to be so admitted, have given and granted to him,

him, and do by these presents, give and grant to him, according to the provisions of the said Act, the present Diploma, conferring on him the right of practising as an Advocate, Barrister, Attorney, Solicitor and Proctor at Law, in all Courts of Law in Lower-Canada.

Given at the City (or Town) of _____, under our signature and the seal of our section, and countersigned by our Secretary, on the _____ day of the month of _____, in the year of our Lord, one thousand eight hundred and _____

[L.S.]

(Signed,)

C. D.,
Bâtonnier.
E. F.,
Secretary.

SCHEDULE No. 2.

PROVINCE OF CANADA, }
DISTRICT OF }

To the Bâtonnier and the Members of the Council of the Bar of Lower-Canada, section of the District of _____

A. B., Esquire, Syndic, elected for the section of the Bar of Lower-Canada, called Section of the District of _____, hereby informs the said section, that C. D., Esquire, one of the members of the said Bar, residing in the said section of the District of _____, is accused under the oath of persons worthy of credit, by E. F., of _____, &c. &c., as follows, that is to say: That the said C. D., (here recite the offence.)

Wherefore the said A. B. prays that an order may issue from the section, summoning the said C. D. to appear before the said section, in order that proceedings may be then had on the present information, as to law and justice may appertain, this day of _____, 18 _____

(Signed,)

A. B.,
Syndic.

SCHEDULE No. 3.

PROVINCE OF CANADA, }
DISTRICT OF }

By the Bâtonnier and Members of the Council of the Bar of Lower-Canada, section of the District of _____

To C. D., Esquire, Advocate, Barrister, Attorney, Solicitor and Proctor at Law of _____, Greeting in the said section of the District of _____

You are hereby required to appear in person before us, in our Chambers, in the City of _____, the _____ day of _____, at _____ o'clock

o'clock in the _____ noon, then and there to answer the charge, a copy whereof is above written, brought against you by A. B., Esquire, Syndic of the said section of _____

And you are informed, that in case of your non-appearance before us on the day and hour, and at the place hereinabove mentioned, proceedings will be had by default on the said charge.

Given at _____, under the seal of the said section of the District of _____, the signature of our *Bâtonnier* and countersigned by our Secretary, this _____ day of _____, 18 _____.

(Signed,)

F. G.,
Bâtonnier.

R. S.,
Secretary.

[L.S.]

SCHEDULE No. 4.

PROVINCE OF CANADA, }
DISTRICT OF _____ }

By the *Bâtonnier* and Members of the Council of the Bar of Lower-Canada, section of the District of _____

To A. B., of _____, Greeting:

We hereby command you, and each of you, to appear in person before us, in our Chambers, in the City (or Town) of _____, the _____ of _____, at _____ o'clock in the _____ noon, to bear evidence and speak the truth on all matters within your knowledge respecting a charge brought before us by _____, Esquire, Syndic of the Bar of Lower-Canada, for the section of the District of _____ against C. D., Esquire, a member of the said Bar. And herein fail not under a penalty of a fine of _____ pounds currency.

Given in the City (or Town) of _____, under the seal of our section and the signature of our Secretary, this _____ of _____ 18 _____.

(Signed,)

L. M.,
Secretary.

[L.S.]

CAP. XLVII.

An Act to amend the Act providing for the Organization of the Notarial Profession in Lower-Canada.

[30th May, 1849.]

Preamble.

WHEREAS it is expedient to amend in the manner hereinafter provided the Act passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, and intituled, *An Act for the Organization of the Notarial Profession in that part of this Province called Lower-Canada*: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the seventeenth Section of the said Act shall be and is hereby so amended that it shall with regard to things to be done after the passing of this Act be read and construed as if it were in the words following, that is to say: And be it enacted, That from and after the passing of this Act, no person shall be admitted as a Student with any Notary, unless he shall previously have passed a public examination before one of the Boards of Notaries as to his qualifications and abilities, and have made proof of having pursued for five years a regular course of study in some one or more of the Seminaries or Colleges named in the fourteenth Section of the said recited Act, or shall otherwise have received a Classical Education, and shall have proved the same by a certificate thereof, which shall be annexed to his Articles, or by his examination before the said Board, and a copy of such Articles and of every assignment thereof, shall be filed in the Office of the Secretary of such Board within thirty days from the date thereof, on pain of nullity: Provided always, that nothing in this Act shall be construed to apply to any Student whose Articles shall have been passed before the passing of the said recited Act, nor to affect the right of any such Student to obtain his admission as a Notary at the expiration of the Term of such Articles, subject to the requirements of the Law in force at the time when such Articles were executed—excepting always, that every such Student shall cause an authentic copy of his Articles to be filed in the Office of the Secretary of the Board of Notaries within whose jurisdiction his Patron shall reside, within six months after the passing of this Act.

In what manner the 17th sec. of 10 & 11 Vic. shall be construed. Examination and qualification of students.

Copy of articles, &c., to be filed with the proper Board. Provide as to students articulated before the passing of the amended Act.

Such students to file copies of their articles.

CAP. XLVIII.

An Act to amend the Ordinance providing for the Enregistration of Titles to Immoveable Property, and Incumbrances thereon.

[30th May, 1849.]

Preamble.

WHEREAS great inconvenience and useless expense have arisen from the carrying into effect of certain parts of the Ordinance of the Governor and Special Council of and for the late Province of Lower-Canada, passed in the fourth year of Her Majesty's Reign, and intituled, *An Ordinance to prescribe and regulate the Registering of Titles to Lands, Tenements and Hereditaments, real or immoveable estates, and of charges and incumbrances on the same; and for the alteration and improvement*

Ordinance 4 V. c. 30, cited.

improvement of the law, in certain particulars in relation to the alienation and hypothecation of real estates, and the rights and interest acquired therein, and it is expedient and necessary to amend the said Ordinance by repealing certain parts thereof: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the twenty-second section of the said Ordinance, in so far only as it relates to the relations and friends who have concurred or who may hereafter concur in the election of any tutor or guardian to a minor or minors, or of any curator to any person or persons interdicted, shall be and is hereby repealed, and shall be as if it had never been enacted, and shall remain in force only as regards subrogate tutors: and that the thirty-fourth section of the said Ordinance relating to married women of full age shall be wholly and entirely repealed, and shall be void as if it had never been enacted; and that all deeds of sale or conveyance of lands belonging to any such married woman as *propres*, consented to by her without previous examination before a Judge or before a Court of Justice, and all acts and things whatsoever done by any such married woman as aforesaid since the said Ordinance came into force, shall avail and have effect as if the said thirty-fourth section of the said Ordinance had never been enacted.

Sect. 22 repealed except as to subrogate Tutors.

Sect. 34 and 36 repealed, and certain acts of married women confirmed.

II. And be it enacted, That for and notwithstanding any thing in the said Ordinance, it shall be lawful for the Registrars of the Counties of Quebec and Montreal respectively, to have and keep separate Books and Registers (of the kind and form required by the said Ordinance, and authenticated in the manner thereby prescribed as to those in which memorials are to be registered,) for the registration at full length of deeds, instruments and writings of each of the classes hereinafter mentioned, that is to say:

Registrars at Quebec and Montreal may keep separate Books for the Registration at full length of certain classes of deeds and instruments.

First. Bonds, recognizances and other securities and obligations in favor of the Crown, wills and testaments, and probates or office copies of wills and testaments.

Second. Marriage contracts and donations.

Third. Appointments of tutors and curators, judgments and judicial acts and proceedings.

Fourth. Deeds of alienation and conveyance (*titres translatifs de propriété*;) not being of any of the classes hereinbefore mentioned, including exchanges and leases for more than nine years, and deeds of partition.

Fifth. Deeds, instruments and writings creating mortgages, privileges, hypothèques or incumbrances, and not being of any of the classes hereinbefore mentioned.

Sixth. All other deeds, instruments and writings not being of any of the classes hereinbefore mentioned; and the registration thereof at full length in such books respectively, shall be valid and effectual to all intents and purposes; and the registration

registration of any deed, instrument or writing at full length in any book, except that kept for the registration of memorials, shall not affect the validity of such registration although the Registrar may have mistaken the class to which such deed, instrument or writing properly belongs.

Deputy Registrars may resign or be removed.

Others to be appointed within a certain time.

III. And be it enacted, That for and notwithstanding any thing in the said Ordinance, any Deputy Registrar may resign or be removed from office by his Principal, and in the event of such resignation or removal, it shall be incumbent on such Principal to appoint another Deputy in his place within twenty days after the occurrence of such resignation or removal. And if any such Registrar shall neglect to appoint a Deputy Registrar as hereinbefore is prescribed, he shall forfeit five pounds current money of this Province, for each and every day during which he shall have neglected to make such appointment; which penalty shall and may be recovered in any Court of Record in Lower-Canada, and one half thereof shall go and be paid to Her Majesty, Her Heirs and Successors, and the other half thereof to the informer.

C A P . X L I X .

An Act to amend the Act passed in the eighth year of Her Majesty's Reign, intituled, *An Act the better to facilitate Optional Commutation of the Tenure of Land en roture, in the Seigniories and Fiefs in Lower-Canada, into that of franc-alleu roturier.*

[30th May, 1849.]

Preamble.

WHEREAS by the Law of Lower-Canada, a fine has always been payable to the Sovereign, upon the acquisition, by any Religious or Ecclesiastical Community, or other Corporate Body, of any Seigniorie or Fief therein, as an indemnity for the loss of the casual profits of such Seigniorie or Fief, in consequence of the same being thereafter held in mortmain; And whereas it is neither just nor expedient that such Religious or Ecclesiastical Community, or other Corporate Body, after having paid such fine or indemnity, or after the same having been graciously remitted to them by Her Majesty or any of Her Royal Predecessors or Successors, should be liable to pay a further fine or indemnity upon the Commutation of the Tenure of any land held *en roture* in any such Seigniorie or Fief; And whereas it is expedient to amend an Act passed in the eighth year of Her Majesty's Reign, intituled, *An Act the better to facilitate Optional Commutation of the Tenure of Lands en roture, in the Seigniories and Fiefs in Lower-Canada, into that of franc-alleu roturier*, in this particular, and also in so far as the same unnecessarily imposes upon the vassals (*censitaires*) of such Religious or Ecclesiastical Communities or other Corporate Bodies, holding Seigniories or Fiefs in mortmain in Lower-Canada, conditions and restrictions as to Commutation of the Tenure of their Lands, more onerous than those imposed upon the vassals (*censitaires*) of other Seigniories: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That so much of the said Act as requires, or may

Act 8 Vict. c. 42 cited.

Certain parts of the said Act

may be construed to require, that any Religious or Ecclesiastical Community, or other Corporate Body in Lower-Canada, holding in mortmain Seigniories or Fiefs therein, should give in to the Receiver-General of this Province any authentic copy of any notarial agreement executed in virtue of the provisions of the said Act, or be liable to pay over into the hands of the said Receiver-General, any portion of the indemnity, commutation money, or consideration received or to be received in pursuance of any such agreement, or incur any penalty or forfeiture for neglecting or refusing so to do, and also so much of the said Act as enacts that the commutation of any Seigniorial rights held in mortmain shall be accompanied by the same formalities as the alienation of any immoveable property of the same party, and provides that such commutation shall be made for an annual rent, and not otherwise, be and the same are hereby repealed.

relating to Seigniories and Fiefs held by religious communities and corporate bodies repealed.

II. And be it enacted, That the commutation of any Seigniorial rights held in mortmain, or by any Corporation in Lower-Canada, may be made without having previously obtained authority for so doing, and that no other formality need be observed than such as is required in the transfer of real property from one person to another; and that such commutation may be made for any consideration that may be agreed upon; and that no portion of such consideration shall be payable to Her Majesty, Her Heirs or Successors.

Further provision as to commutation of Seigniorial rights held in mortmain.

C A P. L.

An Act to amend the School Law of Lower-Canada.

[30th May, 1849.]

WHEREAS it is necessary to amend a certain Act passed in the ninth year of Her Majesty's Reign, intituled, *An Act to repeal certain enactments therein mentioned, and to make better provision for Elementary Instruction in Lower-Canada*: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the passing of this Act, it shall be lawful for the Governor in Council, from time to time, to alter the limits of existing School Municipalities, to subdivide the same, or to establish new ones for School purposes, of all which public notice shall be given by the Superintendent of Schools for Lower-Canada, in such manner as the Governor shall direct.

Preamble.
Act 9 Vic. c. 27 cited.

Governor in Council may alter School Municipalities, and make new ones, &c.

II. And be it enacted, That from and after the first day of July next, the monthly School fees, in each School Municipality, shall not be demandable except for each child of from seven to fourteen years of age capable of attending School: Provided always, that children of from five to sixteen years of age residing in any School District, shall have a right to attend the School thereof, upon payment of the said monthly fees.

For what children School fees must be paid. Proviso.

Paragraph 13, of section 21 repealed, and certain children exempted from School fees.

III. And be it enacted, That the thirteenth paragraph of the twenty-first Section of the said above cited Act, shall be and the same is hereby repealed; and that hereafter the School Commissioners shall not exact the monthly School fees from indigent persons, nor from any other persons for or on account of children who are mentally deranged, blind, deaf and dumb, or incapable of attending School by reason of some grave and protracted illness, nor for or on account of children absent from the School Municipality for their education, or attending a College or other Educational Institution, either incorporated or receiving a special allowance out of public funds other than those under the control of the School Commissioners.

The amount required to be levied by assessment may be paid as a voluntary contribution.

IV. And be it enacted, That when in any School Municipality the valuation of property shall have been duly made, and the repartition or assessment for Schools, founded upon the said valuation, shall have been established before the first of July in any year, for the then following scholastic year, it shall be lawful for the persons who shall be so assessed, or for any other of the inhabitants of such School Municipality or School District, in the said month of July in such year, to pay, as a voluntary contribution, into the hands of the Secretary-Treasurer, the sum of money required for the scholastic year then commenced, to equal the amount of public monies granted to such Municipality out of the School fund, for the said scholastic year; the payment of which said voluntary contribution shall be attested under oath before a Justice of the Peace, by the Secretary-Treasurer and by the President, or some other of the School Commissioners, of the said Municipality, and such oath or attestation shall be transmitted to the Superintendent of Schools, before the tenth day of September: Provided always that the said Secretary-Treasurer shall not receive the amount of the said voluntary contribution by portions or otherwise than in one and the same payment; and the Secretary-Treasurer shall hold the said amount in lieu of the fund which would have been raised by assessment for the said scholastic year so commenced, and the said repartition or assessment shall thereupon be and remain inoperative for that year in such Municipality or School District: Provided always, that the monthly School fees and any assessment imposed for the erection of School Houses, shall be levied by the Municipality or School District when they shall not have been voluntarily paid.

Payment to be sworn to.

Proviso: contribution not to be paid by portions: it shall be dealt with as if raised by assessment.

Proviso as to School fees.

Indigent Municipalities may be exempted in whole or in part from assessments.

Proviso: conditions of such exemption.

V. And be it enacted, That whenever the School Commissioners of indigent Municipalities shall, in good faith, have carried into execution the provisions of the law, and the amount of the assessment actually levied, shall notwithstanding fall short of the amount required by law, the Superintendent of Schools shall have power, upon a representation to that effect, and upon a proof of the facts to his satisfaction, to exempt such municipalities or any of them, from the payment of the whole or of part of the assessment for the current year, and in that case he shall be authorized to grant them the amount to which they would otherwise be respectively entitled out of the Common School Fund; Provided always, that no such indulgence shall be so granted, unless the representation aforesaid be supported in writing by three of the School Visitors of the Municipality in question, (other than the School Commissioners,) or of the neighbouring Municipalities, who shall certify that they have a personal knowledge of the facts alleged, that the School Laws have been *bonâ fide* enforced in such Municipality, that they have themselves visited the Schools therein, and were satisfied therewith.

Clergymen eligible to be Commissioners.

VI. And be it enacted, That the Clergymen of all religious denominations in each School Municipality shall be eligible to be such Commissioners without any property qualification; any Law or Statute to the contrary notwithstanding.

VII. And be it enacted, That notwithstanding the provisions contained in the sixteenth section of the said Act above cited, every Secretary-Treasurer now in Office, or who may hereafter be chosen or appointed, shall be held after the first day of July next, before continuing or entering upon his duties as such Secretary-Treasurer, to give security to the said School Commissioners, either by a Notarial Instrument (*Acte notarié*) the minute of which shall remain with the notary receiving it, or by a bond (*Acte sous seing privé*) signed and acknowledged before a Justice of the Peace; the said security to be given by at least two solvent sureties jointly and severally (*solidairement*) to the satisfaction of the President of the School Commissioners, and for the total amount of the monies for which the said Secretary-Treasurer may at any time be responsible arising as well from the Local School Fund, or any particular contributions and donations paid into his hands for the support of Schools, as from the Common School Fund, which security shall be renewed whenever its renewal shall be required by the School Commissioners; Provided always, that whenever the said security shall be as aforesaid entered into by Bond (*Acte sous seing privé*) the original thereof shall within one month after its execution be deposited in the hands of the County Registrar who shall keep the same in his custody and deliver copies thereof, which, being certified by him to be true, shall be considered to all intents and purposes as authentic, and for every such copy the said Registrar shall be entitled to demand and receive six pence currency for every hundred words therein; Provided also, that the School Commissioners shall at all times have power to remove the Secretary-Treasurer, and to appoint another in his place; Provided always, that no School Master shall be elected or serve as a Secretary-Treasurer nor be appointed a Justice of the Peace.

Secretary Treasurers to give security; how and to what extent.

Proviso: Bond to be deposited with the County Registrar, if *sous seing privé*.

Fee to Registrar.

Proviso.

Proviso.

VIII. And be it enacted, That whenever School Commissioners shall be appointed by the Governor in Council in all or any of the cases provided by the third Section or by any other Section of the Act hereinbefore cited, the School Commissioners antecedently in office, shall, from the date of such appointment, cease to possess any power or to act as such, as also all Assessors, Collectors, and other Officers appointed by or acting under them; Provided always, that it shall be lawful for the Governor in Council, at all times, and so often as he may deem it necessary so to do, to annul the appointment of Commissioners so by him made and that of the other Officers acting under them, and to name and appoint other Commissioners in their stead, who shall in that case proceed to the nomination of the said Officers, to perform the other duties pertaining to their office, and during their incumbency in the said office, to do, in pursuance of the said above cited Act or of this Act, all those things which their predecessors may have neglected or refused to do.

As to Officers appointed by Commissioners who are replaced.

Proviso: Governor may remove Commissioners appointed by him.

IX. And be it enacted, That no person shall be entitled to vote at elections of School Commissioners in any School Municipality, unless he shall have previously paid up all contributions then due and payable by him for School purposes in such Municipality; and any person so voting in contravention to this enactment, shall incur a penalty not exceeding two pounds ten shillings, currency.

Persons voting must have paid all contributions.

X. And be enacted, That whenever on the occurrence of a vacancy in the Office of School Commissioner, in the case provided for by the fourteenth Section of the said above recited Act, the election of another person to the said Office shall not have taken place within one month after the occurrence of such vacancy or incapacity, it shall be lawful for the Governor in Council to fill up such vacancy: Provided always, that in

Certain vacancies may be filled by the Governor.

Proviso as to all

vacancies by sickness.

all cases of incapacity arising from sickness, no such election or appointment to fill the said Office shall take place, unless the said incapacity shall have been established by the certificate of a Physician deposited with the Secretary-Treasurer; and the vacancy arising from such incapacity shall date from the day of the deposit of such certificate.

Appeal given to the Superintendent in certain cases.

Proviso: it must be approved by three Visitors.

XI. And be it enacted, That whenever a site for a School House shall be selected by the School Commissioners, or in the case of an alteration in the limits of School Districts, or of the creation of new ones in any School Municipality, an appeal shall at all times lie to the Superintendent of Schools: Provided always, that no such appeal shall be brought without the approbation in writing of three School Visitors other than the School Commissioners of the said Municipality.

Difficulties between the Commissioners and their Secretary-Treasurer to be settled by the Superintendent.

Force and effect of his decision.

XII. And be it enacted, That in the event of any difficulties arising between the School Commissioners and the Secretary-Treasurer of any School Municipality, or in the event of an application in writing to the same effect being addressed to the Superintendent of Schools by at least five of the assessed contributors to the Local School Fund of such Municipality, on the subject of the accounts, or of the rendering of the accounts of the said Secretary-Treasurer for the year ending on the first of July then preceding, the Superintendent of Schools shall have power at all times to cause the said accounts, together with the vouchers in support of the same, or copies thereof, to be laid before him, and shall upon the whole matter render a full and explanatory judgment, which shall be entered in a Register to be by him kept for that purpose, which judgment shall have the force of a decision of Arbitrators (*sentence arbitrale*) as to all parties concerned, and of such judgment copies may be given by him which being by him certified as true, shall be taken and deemed to be authentic.

Effect of documents signed by the Superintendent.

XIII. And be it enacted, That every document, or copy of a document, signed or certified by the Superintendent of Schools, shall be *prima facie* evidence of the truth of what is therein stated.

Part of paragraph 11 of section 21 repealed.

How school monies shall be divided after 1st July, 1849.

XIV. And be it enacted, That so much of the Eleventh Paragraph of the Twenty-first Section of the said above cited Act, as provides that after the deductions therein mentioned the School monies in any School Municipality shall be distributed in equal shares among the School Districts of such Municipality, shall be and the same is hereby repealed from and after the first day of July next, and that from and after the last mentioned day, the amount of the School monies, after deducting the sum of twenty pounds currency, for the support of a Model-School, if any such School there be, shall be divided amongst the several School Districts in such Municipality in proportion to the number of children between seven and fourteen years of age residing therein and capable of attending School; the Girls School established in virtue of the Thirtieth Section of the said above cited Act, being counted as one School District, and the Model-School as another School District, without prejudice nevertheless to the previous grant of twenty pounds as above mentioned; and the proportion of the monies to be allotted to the said Girls School and to the said Model-School respectively, shall be determined by the number of children of the age prescribed for attending School, residing in the School District in which such Model-School or Girls School is established.

Proportion for Girls school or model-school.

XV. And be it enacted, That whenever it shall be necessary to purchase or to build a School House, in any School District of any School Municipality, and it shall appear to the School Commissioners, from their knowledge of the circumstances of the case, that it would be just that such School House should be purchased or built by the inhabitants of the said School District specially, and not by the Municipality generally; and also in all cases, whenever, under like circumstances, it may be necessary to repair and keep in order any School House in any particular School District, it shall be lawful for the said School Commissioners to levy, at the time and in the manner prescribed by the said above cited Act for levying assessments for the building of School Houses in general, a special assessment in each such School District, for the purchase or building, and for the repairing and keeping in order of the School House of such School District, and in such case such School District shall for that year be exempt from any assessment for the purchase or building of School Houses, except it be for a Model-School: Provided always, that in every case of special assessment, as hereinabove mentioned, in any School District, or of a general assessment in the whole of the Municipality, for the purchase or building of School Houses, other than a Model-School, after such special assessment shall have taken place, it shall be lawful for any of the parties, so assessed in every School District so separately assessed, to appeal to the Superintendent of Schools, who may set aside such assessment, or relieve therefrom the School Districts or any one of them so appealing or confirm the same, as may to him appear most equitable under the circumstances.

Provisions where a school house ought to be built or repaired by any School District specially.

Proviso: appeal given to the Superintendent as to such special assessment.

XVI. And be it declared and enacted, That the School Commissioners of any School Municipality, may institute suits or prosecutions in the manner provided for in the fourteenth paragraph of the said twenty-first section of the said above cited Act, as well for the assessments for Schools or School Houses as for the said monthly School Fees, and for all arrears of the said assessments or monthly fees due by virtue of the said Act above cited or which may hereafter become due at any time by virtue of the said Act, or of this Act; and that all such suits or prosecutions may be instituted either before two Justices of the Peace in the County, or before a Circuit Court, but not before any other tribunal, without prejudice nevertheless to any suits or prosecutions now pending: Provided always, that in all such suits or prosecutions, judgment may be rendered with costs; and provided also, that no judgment rendered upon such suits or prosecutions shall be liable to be appealed from, nor shall any such suit or prosecution be removed by Writ of *Certiorari*.

Commissioners may sue for fees or assessments, and before what Tribunals.

Proviso as to costs. Proviso: no appeal or *certiorari*.

XVII. And be it enacted, That whenever an assessment maintained by the School Commissioners in any School Municipality shall have been annulled or set aside, it shall be the duty of the said Commissioners forthwith, and in a summary manner, to cause a new assessment to be made, which new assessment shall be made and take effect in such Municipality for the whole time, as well passed as to come, for which the assessment so annulled or set aside would have been in operation and in force if it had been valid; Provided always, that such annulling, avoidance or setting aside of the said assessment as aforesaid, shall not have the effect of invalidating any payments made under the authority of the assessment so annulled or set aside, which payment shall go towards the discharge of the new assessment for the period for which they shall have been made, the assessment so annulled or set aside being hereby declared invalid for the future only, and not with regard to such payments, nor with regard to any judgments already rendered to enforce such payments.

Provision where any assessment shall be annulled.

Proviso as to suits commenced or payments made before the annulling thereof.

XVIII.

Trustees of Dissident Schools may acquire the right of themselves collecting their share of the assessments.

And obtain copies of certain papers.

And receive the School fees, &c.

Their general rights and duties.

They may make an assessment if there be none, &c.

School allowance may be paid in certain cases, non-obstante section 27 of 9 V. c. 27.

XVIII. And be it enacted, That any thing in the twenty-sixth section of the said above cited Act or in any other part of the said Act contained to the contrary notwithstanding, whenever the Trustees of Dissident Schools shall have been chosen and shall have established one or more Dissident Schools in any School Municipality, and the said Trustees shall not be satisfied with the arrangements antecedently made by the School Commissioners of the said Municipality relative to the recovery and the distribution of the assessment, they may, by a written declaration to that effect addressed to the President of the School Commissioners at least one month before the first day of January or July in any year, acquire the right of receiving themselves, for the following and all future years during which they shall continue to be such Trustees of Dissident Schools according to law, the assessment levied on the inhabitants so dissentient, who shall have signified their dissent in writing conformably to the said above cited Act, or who shall hereafter signify the same at the times and in the manner hereinbefore provided, and the said Trustees shall in such case, be entitled to obtain a copy of the assessment in force, of the lists of children capable of attending School, and of other documents in the hands of the School Commissioners or of the Secretary-Treasurer, and connected with the future government of Dissident Schools; the said Trustees may and shall also receive the amount of the monthly fees payable in respect of the children of such dissentient parents or masters, and may institute all suits or prosecutions, and do all other things necessary for the recovery of the said assessments and monthly fees; and they, the said Trustees, shall be a Corporation for the purposes of their own Dissident Schools and School Districts, and shall be entitled to receive from the Superintendent, shares of the General School Fund, bearing the same proportion to the whole sums allotted from time to time to such Municipality as the number of children attending such Dissident Schools bears to the entire number of children attending School in such Municipality at the same time, and a similar share of the building fund; and the said Trustees shall have the right to constitute their own School Districts independently of the School Districts established by the Commissioners aforesaid, and shall have the same rights and shall be subject to the same duties and penalties as the said School Commissioners, in respect of the collection and application of the monies by them received, of the rendering and examination of their accounts, and of all other matters whatever in reference thereto, and may be removed and others appointed by the Governor in Council, or by the Superintendent of Schools in all those cases in which School Commissioners are liable to be so dealt with; Provided always, that if after such declaration of separate management, there should be no subsisting assessment, or if the assessment should not appear to them a proper one, the said Trustees may in the months of July and August in each year, proceed to make such assessment for the future, conformably to the said Act, upon the inhabitants so dissentient as aforesaid; and provided also, that the said Trustees shall be, and they are hereby held to furnish to the Superintendent a written statement, under the oath of at least two of them, of the number of children attending such Dissident School at least one month previous to the said first days of January and July, to enable the said Superintendent to make the proper apportionment of the said general and building funds.

XIX. And be it enacted, That notwithstanding the provisions contained in the twenty-seventh section of the said above cited Act, the School allowance may be granted in every School Municipality in respect of every School in the School District whereof the number of children of the age required for attending such School shall amount

amount to at least fifteen, although it shall not have been actually attended by that number throughout the scholastic year, whenever the School Commissioners shall have endeavoured in good faith to carry out the law ; so also the School Commissioners who shall have *bonâ fide* engaged a Master or a Mistress for any School District, may pay to the said Master or Mistress the remuneration agreed upon, although the number of children who shall have regularly attended the School should not have been sufficient according to the provisions of the said twenty-seventh section.

And the Teacher may be paid.

XX. And be it enacted, That the Superintendent of Schools shall have power to refuse the School allowance, for any year, to any Municipality the School Commissioners of which shall not have rendered sufficient accounts accompanied by vouchers, of the application of the School monies for the years preceding or for any one of them, whatever be the source whence those monies were derived.

Superintendent may refuse allowance to any Municipality if proper accounts have not been theretofore rendered.

XXI. And be it enacted, That the monthly fees hereinbefore mentioned payable on account of children attending a Model-School, or a separate Girls School, or a School kept by some religious community forming a School District according to the provisions of the said above cited Act or of this Act, shall form no part of the School Fund, but such monthly fees, to the amount established for the other children in the Municipality, shall be payable directly to the Teacher, and be for his or her use, unless different monthly fees shall have been agreed upon.

The fees in certain Schools not to form part of the School Fund.

XXII. And be it enacted, That the Secretary-Treasurer may, in the discretion of the School Commissioners, receive a remuneration of four per cent. instead of two and a half per cent., in the manner and for the purposes mentioned in the thirty-first section of the said above cited Act.

Secretary-Treasurer's allowance may be increased.

XXIII. And be it enacted, That in any case in which difficulties of a grave nature on the subject of Schools shall have occurred in any School Municipality, and whenever in consequence thereof it shall become necessary that the Superintendent of Schools should repair to the spot, to correct the evil, or to obtain information, and he shall be unable so to repair to the spot, by reason of the other duties of his office, or of sickness, or some other cause, it shall be lawful for the Governor to appoint whenever need shall be, upon a representation in that behalf from the Superintendent of Schools, a proper person in the stead of the said Superintendent of Schools, to act in relation to such difficulties, and with all the powers of the said Superintendent, unless those powers be otherwise defined and limited in the order containing the nomination of such Deputy.

A Deputy may be appointed to act for the Superintendent in certain cases.

Powers of such Deputy.

XXIV. And be it enacted, That if there should be no existing property-valuation either for the County or for the particular Municipality in question, upon which a repartition or assessment for Schools can be based, or if the persons in whose hands such valuation shall be deposited should refuse, or neglect, after having been thereunto required by ten days' notice in writing, to deliver to the School Commissioners of a School Municipality entitled thereto, or to their Secretary-Treasurer, the original of the said valuation, or a certified copy thereof, (which copy being so certified to be true, by the person so having the custody of the original, shall be *prima facie* evidence of the truth of what is therein stated), the said School Commissioners shall have the power, at all times after such refusal or neglect, to cause such property-valuation to be made

When there is no valuation of property or the Commissioners cannot obtain it, they may cause a valuation to be made.

Penalty on Commissioners neglecting their duty in this behalf.

Proviso: Penalty for refusing a copy of any existing valuation.

Fee for such copy.

Proviso.

Power of the persons employed to make such valuation.

Penalty for obstructing them, &c.

By what authority only any valuation or assessment may be amended.

And within what time.

Balance of School Fund coming to L. C. how to be appropriated.

made by three Assessors to be appointed and authorized by them for that purpose; and if the said Commissioners neglect to give, within one month after their election or appointment, the notice hereinabove required, to obtain either the original or a copy of the said valuation, or if they should neglect to cause the said valuation to be made in their School Municipality within three months next after their said election or appointment, in the cases hereinabove in this section mentioned, each of the said Commissioners shall be liable to a penalty of Two pounds Ten shillings currency, for having neglected to give the said notice, and to a further penalty of Five shillings currency, for each and every day that the said Commissioners shall have been in default in causing the said valuation to be made, as required in the case hereinbefore mentioned: Provided always, that when a valuation applicable to the levying of the said repartition or assessment for Schools shall be in existence, and the persons who shall be in possession thereof, shall refuse or neglect to hand over and deliver as aforesaid, either the said original or the said copy so certified within ten days after being thereunto required by notice as aforesaid, every such person shall, for such refusal or neglect, incur a penalty of Five pounds currency; and for every such copy so duly certified and delivered, such person shall be entitled to receive from the said School Commissioners the sum of Two pounds currency, and no more; Provided also, that whenever the valuation to be copied shall comprise a larger territorial extent, a copy of so much thereof as relates to such School Municipality shall be deemed sufficient.

XXV. And be it enacted, That the persons authorized to make the property-valuation, upon the basis of which the repartition or assessment for Schools in any School Municipality may be established, shall at all times, hereafter, have the right to enter in and upon any property, whether in the possession of the proprietor or of any other occupant, to inspect the said property, and to require from such proprietor or occupant any and every information calculated to aid in the making and completing of the said valuation; and in case of any obstruction or refusal to allow the said persons or any of them to effect such valuation, in manner aforesaid, or to give them such information as aforesaid, every person so refusing or obstructing them shall incur a penalty of One pound currency.

XXVI. And be it enacted, That when a property-valuation, upon the basis of which the repartition or assessment for Schools may be established as aforesaid in any School Municipality, shall hereafter be made, it shall be amended by that authority only, by which it shall have been ordered to be made; and the repartition or assessment, based on such valuation, shall not be amended, except by the School Commissioners only; and the same may be amended by the said School Commissioners in the manner and at the time prescribed by the said above cited Act, or at any other time during their incumbency in the said office.

XXVII. And be it enacted, That the balance remaining unexpended or unclaimed out of the portion of the Common School Fund belonging to Lower-Canada shall be appropriated by the Superintendent of Schools, under the authority of the Governor in Council, in aiding to finish School Houses actually commenced, or to build new ones, or to make extensive repairs to old ones, in such manner as he shall deem most conducive to the advancement of Elementary Education.

XXVIII. And be it enacted, That the fifty-first section of the said above cited Act shall be, and the same is hereby repealed, and that from and after the passing of this Act, any person who shall act as Assessor, to make a property valuation upon the basis of which the repartition or assessment for Schools may be established, as aforesaid, without being a proprietor of real or personal property in the Municipality in which he shall so act, to the amount of One Hundred pounds currency, shall incur a penalty of Two pounds Ten shillings currency, unless such Assessor be otherwise exempt by law from possessing such qualification.

Section 51 of 9 V. c. 27 repealed.

Qualification of Valuers and penalty for acting without it.

XXIX. And be it enacted, That any thing contained in the tenth paragraph of the fiftieth section of the said above cited Act, to the contrary notwithstanding, the School Teachers bound by the provisions thereof to undergo an examination before the Board of Examiners, and to be provided with a certificate of qualification on or before the first day of July, one thousand eight hundred and fifty-six, shall be bound to comply with the same formalities and obligations immediately after the first day of July, one thousand eight hundred and fifty-two.

Teachers to undergo examination under sec. 50 of 9 V. c. 27, in 1852.

XXX. And be it enacted, That reckoning from the first day of July last, the sum to be allowed to the Superintendent of Schools for a Secretary, shall be Two hundred and twenty-five pounds currency, and for a Clerk One hundred and seventy five pounds currency per annum, in lieu of the allowances for the like purposes in the above cited Act mentioned.

Salary of Secretary and Clerk to Superintendent.

XXXI. And be it enacted, That all fines and penalties imposed by this Act, and by the said above cited Act, shall be prosecuted and recovered with costs before a Justice of the Peace in the County, or before a Circuit Court, and not before any other Tribunal, without prejudice nevertheless to any suits or prosecutions now pending, and that the amount of the same shall form part of the local School Fund as provided for in the said above cited Act, in the School Municipality where the said fines and penalties shall have been incurred.

Fines and penalties how recoverable.

XXXII. And be it enacted, That this Act shall apply only to Lower-Canada.

Act to apply only to L. C.

C A P I.

An Act to remove doubts as to the first meetings of Municipal Councils under the Act for making better provision for the establishment of Municipal Authorities in Lower-Canada.

[30th May, 1849.]

WHEREAS doubts exist as to the legality of the first meeting held in the Counties of Sherbrooke and Stanstead and in other Counties of Lower-Canada, of the Municipal Councillors elected under the Act passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, and intituled, *An Act to make better provision for the establishment of Municipal Authorities in Lower-Canada*, to compose the Municipal Councils of the said Counties, respectively, and as to the proceedings had at the said first meeting and at the subsequent meetings of the said Councils, by reason of no specific day having been appointed in the said Act for such first meetings;

Preamble.

10 & 11 Vict. c. 7.

And

The first meetings of the several Municipal Councils of Lower-Canada confirmed.

And whereas it is expedient to remove such doubts and to give effect to the said meetings and their proceedings: Be it therefore declared and enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby declared and enacted by the authority of the same, That the first meeting held by the Councillors elected for the Municipalities in Lower-Canada, respectively, under the provisions of the Act cited in the Preamble to this Act, shall be and are hereby declared to be and to have been legal and valid for all the purposes of the said Act; and all proceedings had by such Councils at their first or any subsequent meetings shall be held to be valid and legal, notwithstanding any informality in or with regard to the said first meetings of the said Councils or the calling or holding thereof, and as if the time at which the same were respectively held had been especially appointed by the said Act for the holding such first meetings respectively.

C A P. LII.

An Act to amend the Act to incorporate the Members of the Medical Profession in Lower-Canada, and to regulate the study and practice of Physic and Surgery therein.

[30th May, 1849.]

Preamble.

10 & 11 V. c. 26.

Who shall be Members of the Corporation.

WHEREAS it is expedient to amend in the manner hereinafter mentioned the Act passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, and intituled, *An Act to incorporate the Members of the Medical Profession in Lower-Canada, and to regulate the study and practice of Physic and Surgery therein*; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That for and notwithstanding any thing in the second section or in any other part of the Act cited in the Preamble to this Act, all persons resident in Lower-Canada, and licensed to practice and actually practising Physic, Surgery or Midwifery therein at the time of the passing of this Act, shall be and are hereby declared to be Members of the Corporation of the *College of Physicians and Surgeons of Lower-Canada*.

As to Members of the Board of Governors after the next election.

Proxies.

II. And be it enacted, That upon, from and after the next election of the Board of Governors mentioned in the fourth section of the said Act, three of the six Members of the said Corporation who under the said section are to be elected Members of the Board of Governors, shall be taken from among the Members of the Corporation resident in the District of Three-Rivers, and three from among those resident in the District of St. Francis; and that of the Members of the said Board of Governors, neither more nor less than eight shall be resident in the City of Quebec, and neither more nor less than eight in the City of Montreal; and that at each election of the Board of

Governors,

Governors, every Member of the said Corporation shall have the right of voting by proxy.

III. And be it enacted, That after the passing of this Act, it shall not be necessary that a license to practise Physic, Surgery or Midwifery in Lower-Canada be granted in any case by the Governor of this Province, but that from and after the passing hereof no person shall practise Physic, Surgery or Midwifery in Lower-Canada, unless he shall have obtained a license from the Provincial Medical Board, who are hereby authorized to issue such license.

Licenses to be given by the Board and not by the Governor.

IV. And be it enacted, That after the passing of this Act, the seventh and eighth sections of the said Act shall be interpreted and have effect as if the words "certificate," and "certificate of qualification," were struck out of the said sections wherever they occur, and the word "license" were inserted instead thereof.

Sect. 7 & 8 amended.

V. And be it enacted, That the said Provincial Medical Board shall have power to grant licenses without examination to such Graduates of Universities in the United States as may have been practising in Lower-Canada, for a period of not less than ten years, provided such Graduates prove to the satisfaction of the said Board that they are of good moral character, and apply for such license, and produce the necessary testimonials and proof within one year from the passing of this Act.

Graduates of the U. S. may be licensed on certain conditions.

VI. And be it enacted, That the penalty imposed by the ninth section of the said Act shall be recoverable with costs, and that the same may be sued for and recovered by the said College of Physicians and Surgeons of Lower-Canada, by its corporate name, and being recovered shall belong to the said Corporation for the uses thereof; and neither in any such suit or in any other civil or criminal action to or in which the said Corporation may be a party or interested, shall any Member of the Corporation be deemed incompetent as a witness by reason of his being such Member.

Penalties under Sect. 9, how recoverable, &c.

Members may be witnesses, &c.

VII. And be it enacted, That the words "a certificate to obtain a license," in the first paragraph of the tenth section, the words "a certificate for license," in the second paragraph of the said section, and the words "a (or "the") certificate for license," in the twelfth, thirteenth and fourteenth sections of the said Act, respectively, shall be construed as meaning a license from the Provincial Medical Board under the provisions of this Act.

Certain words in Sect. 10, 12, 13 and 14, how to be construed.

CAP. LIII.

An Act to abolish Oppositions to Marriages founded on Promises of Marriages, and to repeal the Act therein mentioned.

[30th May, 1849.]

WHEREAS the breach of a Promise of Marriage ought not to form a ground for opposing the Marriage of the party alleged to have committed such breach, the party aggrieved having redress by action at law: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the

Preamble.

the

Oppositions founded on promises of marriage to be null and of no effect.

the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the passing of this Act, no opposition to any Marriage, founded on a Promise of Marriage alleged to have been made to some third party by one of the parties about to be married, shall be maintained or received in Lower-Canada; nor shall any Marriage be delayed or prevented by any opposition founded on the allegation of any such Promise of Marriage, but the Priest or Minister to whom the same shall be tendered or offered shall refuse to receive the same, and act in all respects as if the same had not been tendered or offered; any law, usage, or custom to the contrary notwithstanding.

Act of L. C. 6 W. 4. c. 42, repealed.

II. And be it enacted, That the Act of the Parliament of Lower-Canada, passed in the sixth year of the Reign of His late Majesty King William the Fourth, intituled, *An Act to facilitate the proceedings on certain Oppositions to Marriages*, be and the same is hereby repealed.

C A P. L I V.

An Act to amend the Law relative to the Inspection of Weights and Measures in Lower-Canada.

[30th May, 1849.]

Preamble.

WHEREAS the Laws now in force in Lower-Canada, with respect to the appointment and duties of Inspectors of Weights and Measures, are found to require amendment: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the third and eighth sections of the Act of the Legislature of Lower-Canada, passed in the thirty-ninth year of the Reign of King George the Third, and intituled, *An Act for the better regulating the Weights and Measures of the Province*,—and so much of the said Act as authorizes any other person than the Revenue District Inspectors hereinafter mentioned to perform the duty of regulating, adjusting, stamping and marking Beams, Weights and Measures in Lower-Canada, or as may be in any way inconsistent with the provisions of this Act,—shall be, and the same are hereby repealed.

Sections 2 and 8 of Act L. C. 39 G 3 c. 7, repealed. And certain other provisions.

Standards to be kept by the Clerk of the Legislative Assembly.

II. And be it enacted, That the Clerk of the Legislative Assembly for the time being shall have the custody of the standard Weights and Measures in the said Act directed to be kept in the custody of the Clerk of the Assembly of Lower-Canada, and shall perform all the duties by the said Act assigned to the officer last mentioned: and if any of the standard Weights or Measures or of the Beams or Scales in the said Act directed to be kept in the custody of the said Clerk shall be found wanting, the Governor of this Province may cause others to be imported or procured at the public cost, and placed in the custody of the Clerk of the Legislative Assembly for the purposes of the said Act and of this Act.

III. And be it enacted, That from and after the passing of this Act, the several Revenue District Inspectors in Lower-Canada shall within their respective Districts and by virtue of their office as District Inspectors, and without any other appointment, become and be Inspectors of Weights and Measures within the same, and shall have all the powers and perform all the duties assigned by the said Act to the persons appointed under it for regulating, adjusting, stamping and marking Beams, Weights and Measures, or assigned by this Act to Inspectors of Weights and Measures, and such duties shall be deemed part of their duties as District Inspectors, and any Bonds they may have given or give for the faithful performance of the duties of their office shall be held to extend to the duties hereby assigned to them.

Revenue District Inspectors to be Inspectors of Weights and Measures.

Their present Bonds to extend to their duties under this Act.

IV. And be it enacted, That it shall be the duty of each Inspector, at all proper times when application shall be made to him for that purpose, carefully to examine all Beams and Scales or Weighing Machines of any kind, and to examine and compare any and all Weights and Measures which shall be presented to him for that purpose within his District as such Inspector with the standard provided by law, and when found correct and just and of the true weight and measure, to mark, stamp or brand the same (if a measure, as near the two ends, top and bottom, as may be) with the stamp or brand to be provided for that purpose.

Duty of Inspectors under this Act.

V. And be it enacted, That it shall be the duty of each and every such Inspector of Weights and Measures, upon such day or days, and in such place or places within their respective Districts, as shall be from time to time appointed by the Governor in Council, to attend with the stamps and copies of such standard Weights and Measures in his custody, to examine and compare, and stamp if found correct all such Beams, Scales and Weighing Machines Weights and Measures as shall be brought to him for that purpose, and such stamp shall bear such letters or device as the Governor in Council shall from time to time direct, and shall be held to be stamps used by persons appointed under the Act aforesaid, and the counterfeiting thereof shall be punishable under the said Act accordingly.

Inspectors to attend with Stamps &c., at the places and times to be appointed by the Governor in Council.

VI. And be it enacted, That it shall be lawful for every such Inspector, at all reasonable times, to enter any shop, store, warehouse, stall, yard or place whatsoever within his District, where any commodity shall be bought, sold, weighed, exposed or kept for sale, and there to examine all weights, measures, beams, scales, steel-yards or other weighing machines, and to compare and try the same with the copies of the standard Weights and Measures provided by law; and if upon such examination it shall appear that the same or any or either of them are unstamped or are false, light or otherwise unjust, the same shall be liable to be seized and forfeited, and the person or persons in whose possession the same shall be found, shall on conviction forfeit a sum not exceeding Two pounds for the first and Five pounds for every subsequent offence, which penalty together with all reasonable costs, shall be recoverable before any Justice of the Peace, on the oath of the Inspector or of any other credible witness, and shall, if not forthwith paid, be levied by distress and sale of the goods and chattels of the offender, and such penalty when recovered shall belong to the Crown for the public uses of the Province, and shall be paid over to the Inspector, and by him accounted for in the same manner as other public monies coming into his hands by virtue of his office; and any person or persons who shall neglect or refuse to produce for such examination, when thereto required, all Weights, Measures, Beams, Scales, Steel-yards

Inspectors may enter shops, &c., to examine weights, measures, scales, &c.

False weights, &c., may be seized.

Penalty for having them. How recoverable.

Penalty on any person refusing access

to the Inspector.

Steel-yards or other Weighing Machines, which shall be in his, her or their possession, or shall otherwise obstruct or hinder such examination, shall be liable to a like penalty, to be recovered and applied as aforesaid.

Penalty on Inspector marking weights, &c., without due examination.

VII. And be it enacted, That if any Inspector shall stamp, brand or mark any weight or measure without having first duly compared and verified the same with and by the copies of the standard weights and measures provided by law for that purpose, or shall be guilty of a breach of any duty imposed upon him by this Act, he shall, on conviction, forfeit a sum not exceeding Five pounds, to be recovered and applied as aforesaid

Fee for examination and marking.

VIII. And be it enacted, That for every Weight, Beam or Scale, marked or stamped by any such Inspector, he shall be entitled to demand and receive Six pence, and for every Measure Four pence, and no more.

Notice to be given by Inspectors.

IX. And be it enacted, That every such Inspector shall give one month's notice in one or more newspapers of the District in which he is acting, (if any there be, there published, and if not, then in some adjoining District), from time to time, and at least once in each year, of the different days and places to be appointed as aforesaid, when and where he will attend with the stamps and copies of the standard Weights and Measures, to examine, compare and stamp all Beams, Scales and Weighing Machines, Weights and Measures made use of in buying or selling, if found correct.

Present Inspectors to give over standards in their custody.

X. And be it enacted, That every person appointed for regulating, adjusting, stamping and marking Beams, Weights and Measures, under the provisions of the Act hereinbefore mentioned and in part repealed, shall, on reasonable demand, hand over to the proper Inspector appointed under the provisions of this Act, all and every standard Weight and Measure, or copy thereof, and all and every balance, and all and every stamp, brand or other machine, in his custody as such Inspector, under penalty of Five pounds for every refusal, to be recovered and applied in the same manner as other penalties imposed or arising under the provisions of this Act, and any deficiency in such Weights and Measures required for supplying each and every District Inspector with a complete copy of such standards as aforesaid, shall be supplied by copies to be made at the public cost from the standards in the custody of the Clerk of the Legislative Assembly, and by him to be stamped and certified.

Penalty for not doing so. Copies of standards to be furnished to each Inspector.

XI. And be it enacted, That whenever any District Inspector shall be removed from office or shall resign, it shall be the duty of the person so removed or resigning to deliver to his successor in office all the Beams and standard Weights and Measures, or copies thereof, and Stamps in his possession as such Inspector, and that in case of the death of such Inspector, his representatives shall in like manner deliver the same to his successor in office, and that in case of refusal or neglect to deliver such standards or copies entire and complete, in addition to the penalties hereinbefore provided, the successor in office may maintain an action on the case against the person or persons so refusing or neglecting, and recover double the value of such standards or other articles aforesaid as shall not have been delivered, and in every such action in which judgment shall be rendered for the plaintiff, he shall recover double costs, and one moiety of the damages recovered in every such action shall be retained by the person recovering, and the other shall be applied in supplying such standards as may be required in his office.

Inspectors removed or resigning, to give over their standards, &c., to their successors.

Penalty: and action given to the successor.

XII. And be it enacted, That the penalties imposed by the Act hereinbefore cited and in part repealed, may be sued for and recovered in the manner hereinbefore provided with regard to any penalty imposed by this Act, before any one Justice of the Peace, who may condemn the offender to the imprisonment provided by the said Act for the offence, and may cause such penalty to be levied and the payment thereof enforced in the manner provided by this Act as to penalties hereby imposed; any thing in the said Act to the contrary notwithstanding.

Penalties under the amended Act may be recovered as if imposed by this Act.

CAP. LV.

An Act to amend an Act relating to Masters and Servants in the Country parts of Lower-Canada.

[30th May, 1849.]

WHEREAS it is expedient to repeal the Act hereinafter mentioned, and to make better provision for the decision of differences arising in the country parts of Lower-Canada, between Masters and Mistresses, and their Apprentices, Servants, Journeymen or Labourers: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-write the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the Act of the Legislature of Lower-Canada, passed in the sixth year of the Reign of His late Majesty King William the Fourth, and intituled, *An Act for the more easy and less expensive decision of differences between Masters and Mistresses and their Servants, Apprentices and Labourers, in the country parts of this Province*, shall be and is hereby repealed.

Preamble.

Act of L. C. 6 W. 4. c. 27, repealed.

II. And be it enacted, That this Act shall apply to those parts of Lower-Canada which are not within the Cities of Quebec or Montreal, or the Town of Three-Rivers, and to no other part of this Province.

To what places this Act shall apply.

III. And be it enacted, That any and all Apprentices or Servants of either sex, or Journeymen or Labourers bound by Act of Indenture or written contract or agreement, and all Servants of either sex, or Journeymen or Labourers verbally engaged before one or more witnesses for one month or for any longer or shorter period, who shall be guilty of ill behaviour, refractory conduct, or idleness or of deserting from their service or duties, or of absenting themselves by day or night without leave, from their said service, or from the house or residence of their employers, or who shall refuse or neglect to perform their just duties, or to obey the lawful commands which shall be given them by their Masters or Mistresses, or of any unlawful act that may affect the interest of their said Masters or Mistresses, or who shall be guilty of dissipating their Masters' or Mistresses' property or effects,—shall be liable, upon conviction before any Justice of the peace, to a penalty not exceeding Five pounds currency, or to an imprisonment not exceeding thirty days, for each and every offence, or both.

Punishment of Servants disobeying their Masters, &c.

How enforced.

What warning shall be given, &c., on either side.

IV. And be it enacted, That every Domestic Servant, Journeyman or Labourer, engaged for a fixed period by the month or for a longer space of time, and not by the piece or job, who shall intend to quit the service in which he or she shall be during that time engaged, shall give or cause to be given notice of such intention, at least one month before the expiration of such agreement; and if any of the said persons shall quit the service without giving such notice, he or she shall be considered as having deserted from the said service, and be punished accordingly; and every Master, Mistress or Employer, shall give to his or her Servants, Journeymen or Labourers like notice of his or her intention no longer to keep or employ them after the expiration of their time of service; Provided always, that every Domestic Servant, Journeyman and Labourer, engaged for a time, may be discharged by his or her Master, Mistress or employer, at or before the expiration of his or her engagement, without notice, upon full payment of the wages which he or she would have received for the full time of his or her service; if the time shall be expired, the person so discharged without notice shall be entitled to wages for the full time included between the day when such notice should have been given, and the day of his or her discharge as aforesaid.

Proviso: Servants may be discharged on paying wages for the time of warning.

Penalty for discharging servants without payment of wages as aforesaid.

V. And be it enacted, That any Master or Mistress who may discharge their Servant without paying their wages as aforesaid, shall incur a penalty not exceeding five pounds, and the Justice of the Peace may allow the Servant such portion of the fine as he shall consider to be a reasonable compensation for the injury incurred by such Servant, and shall moreover condemn the said Master or Mistress to pay to the said Servant the amount of wages to which he may be entitled.

Punishment of servants deserting their work.

VI. And be it enacted, That any and every Domestic Servant, Journeyman or Labourer, engaged by the month or longer space of time, or by the piece or job, who shall desert or abandon the service or job for which he, she or they shall have been engaged, before the time agreed upon, shall for each and every offence be liable to a fine or penalty not exceeding five pounds currency, or to an imprisonment not exceeding thirty days, or to both.

Punishment of persons harbouring run-away servants, &c.

VII. And be it enacted, That any and all persons knowingly harbouring or concealing any Apprentice or Servant engaged by written act or agreement, who shall have abandoned the service of his or her Master or Mistress, or instigating or engaging any Apprentice or Servant to abandon such service, or keeping such Servant in his or her service after being informed of the fact, shall be liable to a fine or penalty not exceeding five pounds currency, or to an imprisonment not exceeding thirty days, or to both, for each and every offence.

How complaints under the four preceding sections shall be heard and determined.

VIII. And be it enacted, That all complaints founded upon contravention of any of the four next preceding sections of this Act, may be heard and determined before any one Justice of the Peace, who may by Warrant or Summons require the attendance of the offender before him, and upon the offender being brought up under Warrant or if summoned, upon proof of the service of such Summons, may either in the absence or presence of the offender, determine such complaint in a summary manner, on the oath of any one or more credible witness or witnesses to be sworn before him, and may if the offender be convicted, sentence such offender to the penalty or imprisonment or both hereby imposed for the offence, and may commit such offender to Gaol accordingly, and levy such penalty by Warrant of distress and sale of the offender's goods and chattels:

Provided

Provided always, that the Warrant of distress shall not issue if sufficient security be offered for the payment of the fine and costs within a period of fifteen days. Proviso.

IX. And be it enacted, That any Apprentice, Domestic Servant or Journeyman, bound or engaged as aforesaid, having any just cause or complaint against his or her Master, Mistress or Employer, for any misuse, defect of sufficient wholesome provisions or food, or for cruelty or ill-treatment of any kind, may cause such Master or Mistress to be summoned and to appear before one of the nearest Justices of the Peace to the residence of the party complained against, to answer the complaint to be preferred against him, her or them, by such Apprentice, Domestic Servant or Journeyman; and any and every Master or Mistress, convicted upon such complaint of any offence aforesaid, towards his, her or their Apprentice, Domestic Servant or Journeyman, shall upon each and every conviction be liable to a penalty not exceeding five pounds currency, or to an imprisonment not exceeding thirty days; such complaint to be heard and determined, and such penalty levied, or such imprisonment enforced in the manner provided by the next preceding Section of this Act. As to complaints by servants against their masters, &c.
Punishment of offender.
How enforced.

X. And be it enacted, That upon complaint by any Master, Mistress or Employer, against his, her or their Apprentice, Servant or Journeyman, or by any Apprentice, Servant or Journeyman, against his, her or their Master, Mistress or Employer, of continued mis-conduct or mis-usage, and of repeated violations of the ordinary and established duties of the parties towards each other, or of incapacity to perform the services for which they are hired, any two Justices of the Peace may at a special sitting, upon due proof of the facts, annul the contract or agreement, whether written or verbal, by which such Master, Mistress or Employer, and such Apprentice, Servant or Journeyman may be bound to each other. Justices may annul the agreement between Master and Servant in certain cases.

XI. And be it enacted, That all penalties imposed by this Act shall be paid to the Municipality having jurisdiction over the Parish or Township wherein the offence is committed, except as hereinbefore provided. Application of penalties.

XII. And be it enacted, That every prosecution for any offence against the provisions of this Act shall be commenced within three calendar months after the offence has been committed, and not after. Limitation of prosecutions.

CAP. LVI.

An Act to authorize the formation of Joint Stock Companies in Lower-Canada for the construction of Macadamized Roads, and of Bridges and other works of like nature.

[30th May, 1849.]

WHEREAS it is expedient to encourage the construction of Planked, Macadamized or Gravelled Roads, and also of Bridges, Piers and Wharves and Slides for the passing of timber, deals and other wood goods in Lower-Canada, by Companies who may be disposed to subscribe the necessary capital for the completion thereof; And whereas the delay and expense incident to obtaining a special Act of Incorporation from the Legislature for each separate Company, operate as a great discouragement Preamble.

discouragement to persons desirous of embarking capital for the formation of such Companies : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That any number of persons not less than five, may, in their discretion, form themselves into a Company under the provisions of this Act, for the purpose of constructing any Road or Roads of the kind mentioned in the Preamble to this Act, not less than one mile in length, whether such Roads be to be made over entirely new ground, or by improving any existing Road not being a Turnpike Road, or partly by making a new Road and partly by improving an existing one, and also any Bridge or Bridges, Pier or Piers, Wharf or Wharves, Slide or Slides at or near any Falls or Rapids on any River or Stream, for the safer and more convenient passing of timber, deals and other wood goods ; Provided always, that the said persons shall give notice of their formation into a Company and of the name of their President and Secretary, and of their intention to construct any such Road, Bridge, Pier, Wharf or Slide, during four consecutive Sundays immediately after such formation, at the door of the Church or Churches of the Parish or Township or of the Parishes or Townships in which such Roads, Bridges, Piers, Wharves or Slides are to be constructed, after Divine Service in the morning ; Provided always, that if there be no Church in any such Parish or Township, then the said notice shall be given at the most frequented place in such Parish or Township ; Provided also, that in case any such company shall intend to plank or macadamize any old front road or any old by-road, it shall be lawful for the majority of the persons liable to contribute to the making and keeping in repair of such old front road or by-road, to file an opposition to the formation of the said Company for the said purpose with the Secretary-Treasurer of the Municipality within the limits whereof such old front road or by-road exists, on or before the Monday next after the last of the said four Sundays ; and the said Secretary-Treasurer shall give notice of the said opposition to the Secretary of the said Company ; and the Municipal Council shall hear the said Company by their President or their Secretary and the said opposants on the said opposition at the next sitting of the said Municipal Council, and after hearing the parties shall determine whether it is expedient to authorize the said Company to macadamize or plank the said front road or by-road, or shall make such alteration in the direction of such front road or by-road as they shall deem expedient, and the alteration so made shall be binding upon the said Company if they afterwards make such road, and in the latter case it shall be the duty of the President of the said Company within eight days to state whether it be the intention of the said Company to continue their operations notwithstanding such alteration by the said Municipal Council ; and if the majority of the said persons liable to contribute to the making, and keeping in repair of the said front road or by-road shall neglect to file their opposition on or before the Monday next after the last of the said four Sundays, it shall be lawful for the said Company to proceed forthwith : Provided always, that whenever any such Company shall intend to macadamize or plank any road or construct any other such work as above mentioned through or over any private property, notice of such intention shall be given as above mentioned, and it shall be lawful for the owners of such property to file an opposition with the Secretary-Treasurer of the Municipality as aforesaid in their own name to the formation of the said Company for

Companies may be formed for the construction of Roads, Bridges, Wharves, &c.

Or of slides for Timber.

Proviso : Notice to be given of the formation of such Company.

Proviso : if there be no Church in the locality.

Proviso : the improvement of any old Road, may be opposed and prevented or allowed by the Council of the Municipality.

Company and opposants to be heard.

Council may alter the direction of the proposed road, &c.

If there be no opposition within the time limited!

Proviso as to oppositions to other works.

for the said purpose, and the Municipal Council of the Municipality wherein such private property shall be situate shall proceed upon the said opposition in the manner above mentioned with respect to front roads or by-roads: Provided always, that if the said Municipal Council shall upon such opposition made and during such sitting as aforesaid, pass any By-Law prohibiting any such intended road or work as aforesaid, such road or work shall not be made, constructed or performed by the said Company: Provided always, that no such Company shall construct any such Road or other such works aforesaid, through, over, along or upon any private property or property of the Crown, without having first obtained the permission of the owner or owners, occupier or occupiers thereof, or of the Crown, so to do, except as herein provided; nor shall any such Road be made of a steeper grade than one foot elevation to twenty feet along the Road, without the sanction of the Commissioners of Public Works; nor shall any Bridge or Slide be constructed over any navigable River except with the sanction and approval of the Governor in Council, and upon such conditions, and restrictions for securing the freedom of the navigation and otherwise protecting the interests of the Public, as he shall deem it right to insist upon; nor within the limits of any exclusive privilege granted to any person, or Company during the continuance of such privilege without the express consent in writing of such person or Company first had and obtained for that purpose: And provided also, that no such Company shall be formed under the provisions of this Act to construct any line of Road for which a Charter shall have heretofore been granted, unless the Chartered Company shall have forfeited its Charter by not complying with the conditions thereof; nor shall any private property be taken for any other such work as aforesaid without the consent of the owner, if such owner own all the land required for such work, and shall himself construct such work within six months from the time he shall be notified that a Company has been formed for constructing the same; nor shall any property of the Crown be taken under this Act without the approval of the Governor in Council; nor shall any land be taken without the consent of the owner for the construction of any Slide, unless the construction thereof be approved by the Commissioners of Public Works who shall at the same time that they approve of the construction of such Slide determine and name the time within which the Company shall be bound to make and complete such Slide, and any Company failing to make and complete any such Slide within the time so named and determined for the making and completing of such Slide, shall, at the expiration of such time, forfeit all their rights and powers with respect to the making of such Slide, and to the land taken for the purpose of making the same, which shall thereupon revert to the party or parties from whom the same was taken on payment by him or them to the Company of the then present value thereof, to be ascertained by arbitration as hereinafter provided: And provided also, that no such Road shall be constructed or pass within the limits of any City, or within the limits of any Incorporated Town or Village, except by special permission under a By-law of such City, Town or Village, to be passed for that purpose; Provided also, that all bridges in the line of Road between the termini of any such Road, shall be deemed part of such Road to all intents and purposes whatever, unless specially excepted in the Instrument of Association of such Company; Provided also, that every such company shall make and keep in repair the party fences and ditches along the existing roads which they may take under their control, according to the *procès verbaux* of the said Roads; and whenever any Road constructed by the said Company shall be carried through any private property, the said Company shall make and keep in repair the fences on such property in such manner as shall be agreed upon between the said Company

Proviso: work not to be performed if forbidden by the Council.

Proviso as to conditions to be observed by the Company in certain cases.

Proviso as to other Chartered Companies: private property, &c.

Proviso as to slides.

Proviso as to Roads in Towns, &c.

Proviso as to Bridges.

Proviso: Company to maintain fences.

Company and the owner of such property, or in such manner as shall be determined by the Arbitrators to whom the matter may be referred.

What extent of land may be taken by such Company.

II. Provided always, and be it enacted, That the breadth of land to be taken without the consent of the Proprietor for any Road under this Act shall not exceed twenty eight feet English, except that an additional piece of land not exceeding ninety feet square English at each end of the Road, may be taken as a site for any Toll-house to be erected by the Company; and the land to be so taken, or any Pier, Wharf or Slide shall not exceed the length, (measuring along the River,) necessary for the construction of such Wharf, Pier or Slide, or the depth of fifty-four feet English, measuring at right angles to the River from the ordinary mark of high water, except so much more land as may be necessary for a Road not exceeding thirty feet English in width from such Wharf, Pier or Slide to the nearest highway; but this shall not be construed to prevent any Company from being incorporated for the construction of a Road as well as of a Wharf, Pier or Slide.

Instrument of Association to be executed, and ten per cent. of the capital to be paid up.

Instrument to be registered with receipt for the ten per cent.

Company incorporated; its name and powers.

Further agreements and conditions may be made in the instrument of association.

III. And be it enacted, That when any number of persons, not less than five shall have subscribed a sufficient quantity of stock to amount to a sum adequate, in their judgment, to the construction of any such road or other work, and shall have executed an instrument according to the form in the Schedule to this Act contained, of which an act *de dépôt* shall be thereafter made before some Notary Public for Lower-Canada; and shall have paid to the Treasurer of such intended Company ten per cent. upon the capital stock intended by such Company to be raised for the construction of the Road or other work contemplated by such Company to be formed as aforesaid, and shall have registered such instrument, together with a receipt from the Treasurer of such Company and of the Cashier of some incorporated Bank in which the money shall have been deposited in cash or in Provincial Securities to the credit of the said Company, and to be drawn out when at least one-fourth of the Road or work shall be completed to the satisfaction of the Commissioners of Public Works, and not before, for such first instalment of ten per cent. as aforesaid, with the Registrar of every County through or into which such Road shall be intended to pass, or where such other work shall be situate, such Company shall thenceforth become and be a Chartered and Incorporated Company, by such name as shall be designated in the instrument so to be registered as aforesaid, and by such name they and their successors shall and may have perpetual succession, and shall be capable at law of suing and being sued, of impleading and being impleaded, answering and being answered unto, defending and being defended in all Courts of Law and places whatsoever, in all manner of actions, suits, complaints, matters and causes whatsoever; and they and their successors may have a common seal, and the same may make, alter and change at their will and pleasure, and that they and their successors by their corporate name shall be capable of purchasing, taking, having, holding and conveying, selling and departing with, any lands, tenements and hereditaments whatsoever, which may be or have been thought to be useful and necessary for the purposes of such Corporation; and in and by any such instrument of association, the Shareholders or Members thereof may enter into such agreements and stipulations to and with each other as may not be contrary to the Laws of Lower-Canada or the provisions of this Act, and the same shall be binding on such Members and their assigns or *ayants cause*, becoming Shareholders or Members of the Company.

IV. And be it enacted, That any such Company shall have full power and authority to explore the ground or the country lying between the termini of any Road, or supposed to be adapted for the site of any other such work as aforesaid, intended to be constructed by any such Company, and to designate and establish, take, appropriate, have and hold to and for the use of them and their successors, the requisite lands upon the line and within the limits of any such Road, or for any such other work as aforesaid, according to the provisions hereinafter contained for acquiring the same; and also to cut, make and keep in repair upon such adjoining or neighbouring lands, such ditches, drains and water-courses as may be necessary for effectually draining and carrying off the water from any such road or work, making compensation therefor as hereinafter provided: and for the purpose aforesaid, the said Company and their agents, servants and workmen, are hereby authorized and empowered to enter into and upon the lands and grounds of any person or persons, body or bodies corporate or politic.

Company may explore and take lands, &c.

Making compensation.

V. And be it enacted, That the affairs, stock, property and concerns of every such Company which shall or may be formed under the provisions of this Act, shall for the first year be managed and conducted by five Directors, to be named in the said instrument so to be registered as aforesaid, and thereafter to be annually elected according to the provisions in the said instrument, or if there be none, then according to the provisions of any By-law which the first named Directors or their successors shall from time to time pass for that purpose; and that upon every such election of Directors, each Stockholder shall be entitled to one vote for every share he may hold or be possessed of in the said Company; and any majority of such Directors shall be a *quorum* for the transaction of business, and may exercise all the powers of the Directors or of the Company, except in so far as it may be otherwise provided by the said instrument of association or by the By-laws of the Company.

Appointment of Directors, their powers, *Quorum*, &c.

Votes.

VI. And be it enacted, That if at any time after the formation of any such Company in manner aforesaid, the Directors shall be of opinion that the original capital subscribed will not be sufficient to complete the work contemplated by such Company to be executed, it shall and may be lawful for the said Directors, under a Resolution to be passed by them for that purpose, either to borrow upon the security of the said Company or by mortgage or hypothèque of the road and tolls to be collected thereon, a sufficient sum of money to complete the same, or to authorize the subscription by an instrument referring to the original instrument of association and to be deposited with a Notary and registered as aforesaid, of such number of additional shares as shall be named in the said Resolution, a copy whereof under the hand of the President, and seal of the Company, shall be annexed to such additional instrument.

Increase of stock provided for.

VII. And be it enacted, That each share in every such Company shall be five pounds, and shall be regarded as personal property, and shall be transferable upon the books of such Company, in such manner as shall be provided by any By-law to be made by the Directors in that behalf, and not otherwise so far as regards the rights of the Company, nor shall any transfer be made of any share on which any call remains due and unpaid.

Amount and transfer of shares.

VIII. And be it enacted, That the Directors for the time being may make calls of the Stock subscribed for, in such manner and at such intervals as may be provided by the instrument of association; and the Company may, in any Court having jurisdiction in matters of simple contract to the amount demanded, sue for, recover and receive of or from

Company may sue for calls on stock, if not paid.

What it shall be sufficient to allege and prove in such suits,

from any Stockholder in such Company, the amount of any call or calls of stock which such Stockholder may neglect to pay, after such notice as shall have been agreed upon by such instrument of association, or provided by the By-laws of the Company if not so agreed upon; and in any such action it shall be sufficient to allege that the Defendant is a Stockholder of the Company, and that a call or calls were made upon such stock in the manner required by the instrument of association or By-laws, and were not paid, and to prove by any one witness whether in the service of the Company or not, such facts as will support the said allegations, without alleging or proving the election or appointment of the Directors or any other special matter, and without naming such Directors in the declaration or other proceeding in the case.

Shares on which calls are not paid may be forfeited.

IX. And be it enacted, That if any call made by the Directors upon the Stockholders in the manner provided by the instrument of association of the Company or the By-laws of the Company, shall not be paid in when due, the Directors, instead of suing for the same, may, by Resolution to that effect, sell the shares on which such calls are due and unpaid, and transfer the same to the purchaser as the owner thereof might have done, and after deducting all calls due, interest and costs of sale, they shall pay over the remainder of the proceeds of the sale to the owner of the shares sold.

Corporations, &c., empowered to sell land to any such Company.

X. And be it enacted, That it shall and may be lawful for all bodies, politic, corporate or collegiate, corporations aggregate or sole, communities *grevés de substitution*, guardians, curators, executors, administrators and all other trustees or persons whatsoever, not only for and on behalf of themselves, their heirs and successors, but also for and on behalf of those whom they represent, whether infants, issue unborn, lunatics, idiots, *femes-covert*, or other persons or parties who are or shall be seized, possessed of or interested in any lands or grounds which any such Company may require for the purposes for which they are incorporated, to contract for, sell and convey unto such Company all or any part of such lands or grounds so required by the Company for such purposes; and that all contracts, agreements, sales, conveyances and assurances so to be made, shall be valid and effectual in law to all intents and purposes whatsoever; any law, statute, usage or custom to the contrary thereof in any wise notwithstanding; and that all bodies politic, corporate or collegiate, or communities, and all persons whatsoever, so conveying as aforesaid, are hereby indemnified for what he, she or they, or any of them, shall respectively do by virtue of or in pursuance of this Act.

Indemnity.

Annual rent to be agreed for instead of a fixed sum in certain cases.

XI. Provided always, and be it enacted, That any body politic, community, corporation, or other party or parties whomsoever, who cannot in common course of law sell or alienate any lands or grounds so required by the said Company for the purposes of this Act, shall agree upon a fixed annual rent as an equivalent, and not upon a principal sum, to be paid for the lands or grounds so required by such Company for the purposes for which they are incorporated; and in case the amount of such rent shall not be fixed by voluntary agreement or compromise, it shall be fixed in the manner hereinafter prescribed, and all proceedings shall in that case be regulated as hereinafter prescribed; and for the payment of the said annual rent, and every other annual rent agreed upon or ascertained and to be paid by such Company for the purchase of any lands, or for any part of the purchase money of any land which the vendor shall agree to leave in the hands of such Company, the Road or other work and property of such Company, and the tolls to be levied and collected thereon, shall be, and are hereby made liable and chargeable, in preference to all other claims or demands thereon whatsoever, the deed creating such charge and liability being duly registered.

How secured.

XII. Provided always, and be it enacted, That whenever there shall be more than one party proprietor of any land or property *par indivis*, any agreement made in good faith between such Company and any party or parties proprietor or being together proprietors of one third or more of such land or property, as to the amount of compensation for the same or for any damages thereto, shall be binding as between the remaining proprietor or proprietors *par indivis* and the Company; and the proprietor or proprietors who have so agreed may deliver possession of such land or property to the Company, or empower them to enter upon the same, as the case may be.

As to lands held *par indivis*.

XIII. And be it enacted, That after having given the notice mentioned in the first section of this Act, and after the decision of the Municipal Council shall have been given in favor of the Company, it shall be lawful for the said Company to apply to the several owners of or parties, hereby empowered to sell or convey the lands through which their Road or other work is intended to be carried, or which may suffer damage from the making or constructing of such Road or work, or the exercise of any of the powers granted to such Company by this Act, and to agree with such owners or parties, respectively, touching the compensation to be paid to them by such Company for the purchase thereof, and for the respective damages, and to make such agreements and contracts with the said parties touching the said lands or the compensation to be paid for the same, or for the damages, or as to the mode in which the said compensation shall be ascertained as to such parties and the Company shall seem expedient; and in case of disagreement between the Company and the said owners or parties or any of them, then all questions which shall arise between them and the said Company shall be settled as follows, that is to say:

Company to settle with the owners of lands taken, &c.

The Company shall serve a notice upon the opposite party, containing—a description of the lands to be taken, or of the powers intended to be exercised with regard to any lands (describing them)—a declaration that the Company are ready to pay some certain sum (or rent, as the case may be) as compensation for such lands or for the damages arising from the exercise of such powers—and the name of a person whom they appoint as their Arbitrator if their offer be not accepted; and such notice shall be accompanied by the certificate of a sworn Surveyor disinterested in the matter and not being the Arbitrator named in the notice, that the land (if the notice relate to the taking of land) is required for the Road or other work for making or constructing which the Company is incorporated, that he knows such land or the amount of damages likely to arise from the exercise of such powers, and that the sum so offered is in his opinion a fair compensation for such land and for such damages as aforesaid; and in making the estimate for such compensation, such Surveyor shall, as shall also the Arbitrators hereinafter mentioned, take into consideration and allow for the benefit to accrue to the party to whom compensation is to be made from the Road or work to be constructed by the Company; and in any case wherein the Company shall have given and served the notice aforesaid, it shall be lawful for the Company to desist from such notice, and afterwards to give new notice with regard to the same or other lands, to the same or any other party; but the Company shall in any such case be liable to the party first notified for all damages or costs by him incurred in consequence of such first notice and desistment; and no change of ownership after the Company shall have given and served the notice aforesaid, shall affect the proceedings, but the party notified shall be still deemed the owner, except as to the payment of the sum awarded.

Arbitration if the parties and the Company do not agree.

If

Arbitration,
&c.

If the opposite party be absent from the District in which the land is situate (if the notice relate to the taking of land) or from the District in which the power sought to be exercised, is to be exercised, or be unknown to the said Company, then upon application either to any Justice of the Queen's Bench or Circuit Judge, having jurisdiction in such District, accompanied by such certificate as aforesaid and by an affidavit of some Officer of the Company that such opposite party is so absent, or that after diligent inquiry the party on whom the notice ought to be served, cannot be ascertained, such Justice or Judge shall order a notice as aforesaid (but without the certificate) to be inserted at least three times during one calendar month in the *Canada Gazette* and in some other newspaper to be named by such Justice or Judge, and in either or in both languages in the discretion of such Justice or Judge.

Arbitration,
&c.

If within ten days after the service of such notice, or within one month after the first publication thereof as aforesaid, the opposite party shall not notify to the Company that he accepts the sum offered by the said Company, or notify to them the name of a person whom he appoints as Arbitrator, then any such Justice or Judge may, on the application of the said Company, appoint some sworn Surveyor to be sole Arbitrator for determining the compensation to be paid by the Company.

Arbitration,
&c.

If the opposite party shall within the time aforesaid notify to the said Company the name of the person such party shall appoint as Arbitrator, then the said two Arbitrators shall jointly appoint a third, or if they cannot agree upon a third, (of which fact the allegation of either of them shall be evidence) then any such Justice or Judge shall on the application of the said party or of the Company, (previous notice of at least one clear day having been given to the Arbitrator of the other party,) appoint a third Arbitrator.

Arbitration,
&c.

The said Arbitrators or sole Arbitrator, being sworn before a Justice of the Peace who is hereby empowered and required to administer such oath, faithfully and impartially to perform the duties of their office, shall proceed to ascertain the compensation to be paid by the Company, in such way as they or he or a majority of them shall deem best, and the award of such Arbitrators or of any two of them or of the sole Arbitrator, shall be final and conclusive; Provided, that no such award shall be made or any official act done by such majority, except at a meeting held at a time and place of which the other Arbitrator shall have had at least one clear day's notice, or to which some meeting at which the third Arbitrator was present shall have been adjourned; but no notice to the Company or opposite party shall be necessary, but they shall be held sufficiently notified through the Arbitrator they shall have appointed or whose appointment they shall have required.

Arbitration,
&c.

Provided always, that the award given by any sole Arbitrator shall never be for a less sum than that offered by the Company as aforesaid; and if in any case where three Arbitrators shall have been appointed, the sum awarded be not greater than that offered by the Company, the costs of the arbitration shall be borne by the opposite party and deducted from the compensation, otherwise they shall be borne by the Company; and in either case they may, if not agreed upon, be taxed by any such Justice or Judge as aforesaid.

The Arbitrators or a majority of them, or the sole Arbitrator, may, in their discretion, examine on oath or solemn affirmation the parties or such witnesses as shall voluntarily appear before him or them, and may administer such oath or affirmation, but this shall not prevent the Arbitrators from acting and deciding upon their personal knowledge of the merits of the case, or from using such knowledge as they shall think just and right; and any wilfully false statement made by any witness, under such oath or affirmation, shall be deemed wilful and corrupt perjury, and punishable accordingly. Arbitration,
&c.

The Justice or Judge by whom any third Arbitrator or sole Arbitrator shall be appointed, shall at the same time fix a day on or before which the award shall be made, and if the same be not made on or before such day or some other day to which the time for making it shall have been prolonged, either by the consent of the parties or by the order of any such Justice or Judge (as it may be for reasonable cause shewn, on the application of such sole Arbitrator or one of the Arbitrators, after one clear day's notice to the others,) then the sum offered by the Company as aforesaid shall be the compensation to be paid by them. Arbitration,
&c.

If the Arbitrator appointed by the said Company or by the opposite party, or any third Arbitrator, whether appointed by the two Arbitrators or by any such Justice or Judge, shall die, or be or become disqualified or unable to act, then, on proof thereof to the satisfaction of any such Justice or Judge, such Justice or Judge shall authorize the Company, or the opposite party, or the two Arbitrators, to appoint another person in the place of him who shall be so deceased, disqualified or unable to act, or shall himself appoint another person as third Arbitrator as the case may require, but no recommencement or repetition of any prior proceedings shall be necessary. Arbitration,
&c.

It shall be no disqualification to the Surveyor or other person offered or appointed as Valuator or as Arbitrator, that he be employed by the Company or by the opposite party, or that he have previously expressed an opinion as to the amount of compensation, or that he be related or of kin to any member of the Company, provided he be not himself personally interested in the amount of such compensation: and no cause of disqualification shall be urged against any Arbitrator appointed by any such Justice or Judge after his appointment, but shall be made before the same, and its validity or invalidity summarily determined by such Justice or Judge, and no cause of disqualification shall be urged against any Arbitrator appointed by the Company or by the opposite party after the appointment of a third Arbitrator; and the validity or invalidity of any cause of disqualification urged against any such Arbitrator before the appointment of a third Arbitrator shall be summarily determined by any such Justice or Judge on the application of either party, after one clear day's notice to the other, and if such cause be determined to be valid, the appointment shall be null, and the party offering the person so adjudged to be disqualified shall be held to have appointed no Arbitrator. Arbitration,
&c.

No award made as aforesaid shall be invalidated by any want of form or other technical objection, if the requirements of this Act shall have been complied with, and if the award shall state clearly the sum awarded, and the lands or other property, right or thing for which such sum is to be the compensation; nor shall it be necessary that the party or parties to whom the sum is to be paid be named in the award; and the Arbitrators shall have full power to award that any fences or ditches between the lands taken and other lands of the opposite party, shall be made and maintained by the Company, and in such manner as shall be mentioned in the award. Arbitration,
&c.

On payment or tender of the compensation, the Company may take possession, &c.

Warrant of possession may be obtained, in certain cases and on certain conditions.

XIV. And be it enacted, That upon payment or legal tender of the compensation or annual rent so awarded or determined or agreed upon by the parties themselves as aforesaid, to the party entitled to receive the same, or upon the deposit of the amount of such compensation in the manner hereinafter mentioned, the award shall vest in the said Company the power forthwith to take possession of the lands, or to exercise the right or to do the thing for which such compensation or annual rent shall have been awarded; and if any resistance or forcible opposition shall be made by any person or party to their so doing, any such Justice or Judge as aforesaid may, on proof to his satisfaction that the requirements of this Act have been complied with, issue his warrant to any sheriff or to any bailiff or other proper person, to put the said Company in possession and to put down such resistance or opposition, which such sheriff or bailiff or other proper person, taking with him sufficient assistance, shall accordingly do; and such warrant may also be issued by any such Justice or Judge (and shall be addressed and executed as aforesaid) on the application of the Company before any award or agreement shall have been made, upon the affidavit of any Engineer or Superintendent of Works in the employ of the Company, that the immediate possession of any land, or the power immediately to do any thing mentioned in the notice to the party interested, is necessary to the carrying on of the works of the said Company, and upon the said Company giving security to the satisfaction of such Justice or Judge in such sum as he shall direct (not being less than twice the sum mentioned in the certificate of the sworn Surveyor) to pay or deposit the amount to be awarded as compensation in such case, with interest from the date of such warrant, and all costs, within thirty days after the award shall have been made.

Compensation to stand in the place of the land as to incumbrances, &c.

XV. And be it enacted, That the compensation awarded as aforesaid, or agreed upon by the said Company, and any party who might, under this Act, validly convey the lands, or then in lawful possession thereof as proprietor, for any lands which might be lawfully taken under this Act without the consent of the proprietor, shall stand in the stead of such land; and any claim to, or mortgage, hypothec or incumbrance upon the said land or any portion thereof, shall, as against the Company, be converted into a claim to the said compensation, or to a like proportion thereof, and if the amount of such compensation exceed twenty pounds, they shall be responsible accordingly whenever they shall have paid such compensation, or any part thereof, to a party not entitled to receive the same, saving always their recourse against such party: Provided always, that if the Company shall have reason to fear any such claims, mortgages, hypothecs or incumbrances, or if any party to whom the compensation or annual rent, or any part thereof, is payable, shall refuse to execute the proper conveyance and guarantee, or if the party entitled to claim the same cannot be found, or be unknown to the Company, or if for any other reason the Company shall deem it advisable, it shall be lawful for them to pay such compensation into the hands of the Prothonotary of the Court of Queen's Bench for the District in which such land is situate, with the interest thereon for six months, and to deliver to the said Prothonotary an authentic copy of the conveyance, or of the award if there be no conveyance, (and such award shall thereafter be deemed to be the title of the said Company to the land therein mentioned,) and proceedings shall thereupon be had for the confirmation of the title of the said Company, in like manner as in other cases of confirmation of title, except that, in addition to the usual contents of the notice, the Prothonotary shall state that the title of the Company, (that is the conveyance or award,) is under this Act, and shall call upon all persons entitled to, or to any part of the lands, or representing, or being the

Proviso: mode of clearing incumbrances if any there be.

the husbands of any parties so entitled, to file their oppositions for their claims to the compensation, or any part thereof, and all such oppositions shall be received and adjudged upon by the Court, and the judgment of confirmation shall forever bar all claims to the lands or any part thereof, (including dower not yet open,) as well as all mortgages, hypothecs or incumbrances upon the same; and the Court shall make such order for the distribution, payment or investment of the compensation and for the securing of the rights of all parties interested, as to right and justice according to the provisions of this Act and to law, shall appertain; and the costs of the said proceedings or any part thereof, shall be paid by the said Company or by any other party, as the Court shall deem it equitable to order; and if judgment of confirmation be obtained in less than six months from the payment of the compensation to the Prothonotary, the Court shall direct a proportionate part of the interest to be returned to the Company, and if from any error, fault or neglect of the Company, it shall not be obtained until the six months are expired, the Court shall order the Company to pay to the proper party the interest for such further period as may be right: Provided always, that if the amount of the said compensation do not exceed twenty pounds, the same may be paid by the Company to the party in whose possession as proprietor the land was at the time the Company took possession thereof, or to any person who may lawfully receive money due to such party, and proof of such payment and the award, shall be a sufficient title to the said Company, and shall forever discharge them from all claims of any other party to such compensation or any part thereof, saving always the recourse of such other party against the party who shall have received such compensation.

Proviso as to sums not exceeding £20.

XVI. And be it enacted, That if any land belonging to or in possession of any tribe of Indians be taken, or any power shall be exercised with regard to such lands by any Company incorporated under the authority of this Act, compensation shall be made to them therefor, in the same manner as is provided with respect to other parties; and that whenever it shall be necessary that Arbitrators be chosen for settling the amount of such compensation, the Chief Officer of the Indian Department shall name an Arbitrator on behalf of the said Indians, and the amount awarded shall be paid to the said Chief Officer for the use of such tribe.

As to Indian Lands.

XVII. And be it enacted, That it shall be lawful for the Directors of any such Company to elect one of their number to be the President, and to appoint such and so many officers and servants as they shall deem necessary for performing the duties required of them by the said Company, and in their discretion to take security from them or any of them for the due performance of his or their duty, and that he or they shall duly account for all moneys coming into his or their hands to the use of such Company.

Directors to appoint a President, officers, &c.

XVIII. And be it enacted, That it shall and may be lawful for the President and Directors of any such Company, from time to time, to fix, regulate and receive the tolls and charges to be received from all persons passing and re-passing with horses, carts, carriages and other vehicles, and for cattle driven upon, over and along any road, or from all persons passing over any bridge, with or without any such carriages or animals as aforesaid, or using any work constructed, made and used by such Company under and by virtue of the provisions of this Act: Provided always, that so soon as one or more miles of any such road shall have been completed tolls may be taken therefor, but on no other work shall tolls be taken until the same shall be completed.

Directors to fix Tolls, &c.

Proviso as to roads.

XIX.

Certain By-laws must be confirmed by the Governor in Council.

XIX. And be it enacted, That no By-law, Rule or Regulation of any such Company, fixing, regulating or altering the rate of tolls or charges on any such work or affecting others than the Members or Officers of such Company, shall have force or effect until it shall have been confirmed by the Governor in Council.

Tolls on roads limited.

XX. And be it enacted, That the tolls hereby authorized to be levied by any Company, to be formed and incorporated under the provisions of this Act, upon any Road constructed by such Company, shall not for each time of passing, whether loaded or otherwise, exceed the rate of one penny half-penny per mile, (reckoning from the gate at which the toll is to be paid to the next gate in the direction in which the vehicle or animal on which it is to be paid may have come,) for any vehicle drawn by two horses or other cattle; and for any vehicle drawn by more than two horses or other cattle, one half-penny per mile for every additional one; for every vehicle drawn by one horse or other beast of burthen, one penny per mile; for each sheep or head of swine, one farthing per mile; and for every horse without its rider, and for every ox, cow, or other head of horned cattle, one half-penny per mile; for every horse and rider, one half-penny per mile: Provided always, that it shall be lawful for any individual to compound with any such Company at such reasonable rates as shall be determined upon by the said Company, for passing over any of the said roads or bridges, or for using any of the wharves, piers, or slides constructed by any such Company.

Proviso as to composition for Tolls.

Company to report yearly to the Municipality: and to keep books open to inspection.

XXI. And be it enacted, That it shall be the duty of the Directors of every Company incorporated under this Act, to report annually, at some time during the month of January in each year, to the Municipality having jurisdiction within the locality through which their Road shall pass, or wherein such other work may be constructed by them, under the oath of the Treasurer of such Company, the cost of their work, the amount of all money expended, the amount of their capital stock, and how much is paid in; the whole amount of stock expended on such work: the amount received during the year for tolls, and from all other sources, stating each separately; the amount of dividends paid, and the amount expended for repairs, and the amount of debts due by such Company, specifying the object for which such debts respectively were incurred; and every such Company shall also keep regular books of account in which shall be entered a correct statement of the assets, receipts and disbursements of such Company, which shall be at all times open to the inspection and examination of any person or persons who may for that purpose be appointed by the Municipality having jurisdiction as aforesaid; and every person so appointed shall have the right of taking copies or extracts from the same, and of requiring and receiving from the keeper or keepers of such books, and also from the President and each of the Directors of such Company, and all the other officers and servants thereof, all such information as to such books and the affairs of such Company generally, as such person or Inspector may deem necessary for the full and satisfactory investigation into and report upon the state of the affairs of such Company and the profits by them derived from the Road or Work.

Particulars in such books.

Road, works, &c., vested in the Company.

XXII. And be it enacted, That every such Road or other such work as aforesaid, and all the materials which shall, from time to time, be got or provided for constructing, building, maintaining or repairing the same, and all toll-houses, gates, and other buildings constructed or acquired by and at the expense of any such Company acting under the provisions of this Act and used for their benefit and convenience, shall be vested in such Company and their successors.

XXIII.

XXIII. And be it enacted, That every such Company shall have full power and authority to erect such number of toll-gates or side-bars in, along, or across the said roads, and upon or at any work constructed under this Act respectively, and fix such tolls not exceeding the rates aforesaid, to be collected at each gate or bar, as they may deem fit and expedient (which tolls may be altered from time to time as circumstances may require,) and to erect and maintain such toll-houses, toll-gates, and other buildings and erections as may seem necessary and convenient for the due management of the business of every such Company respectively; Provided always, that no toll shall be exacted for merely crossing any road.

Company may erect Toll-gates, &c.

Proviso.

XXIV. And be it enacted, That every such Company so to be incorporated as aforesaid, shall be bound and is hereby required to complete each and every road not more than five miles in length, and any other work undertaken by them, and for the completion whereof they shall have become incorporated as aforesaid, within two years from the day of their becoming incorporated under this Act, and any longer Road at the rate of five miles for each two years from the said time, in default whereof they shall forfeit all the corporate and other powers and authority which they shall in the meantime have acquired, and all their corporate powers shall thenceforth cease and determine.

Road or work to be completed within a certain time, on pain of forfeiture of privilege.

XXV. And be it enacted, That if any person or persons shall in any way injure, cut, break down or destroy any part of any such Road, Bridge or other such work as aforesaid, or any toll-gate or toll-house, building or other erection in, upon, or near any such Road or work, and belonging to or used for the convenience of any such Company under the provisions of this Act, every such person so offending, and being lawfully convicted thereof, shall be deemed guilty of a misdemeanor, and shall be punished by fine and imprisonment; and if any person or persons shall remove any earth, stone, plank, timber or other materials used or intended to be used in or upon the said Road, for the construction, maintenance or repair thereof, shall drive any loaded wheel carriage or other loaded vehicle upon that part of any of the roads constructed under the authority of this Act, lying between the stones, plank, or hard road and the ditch, further than may be necessary in passing any other vehicle or in turning off or upon such road, or shall cause any injury or damage to be done to the posts, rails or fences, or shall haul or draw, or caused to be hauled or drawn, upon any part of the roads constructed as aforesaid, any timber, stone, or other thing which shall be carried principally or in part upon wheeled carriages or sleighs, so as to drag or trail upon such Road to the prejudice thereof, or if any person shall leave any wagon, cart, or other carriage whatever, upon such road without some proper person in the sole custody or care thereof, longer than may be necessary to load and unload the same, except in case of accident, and in cases of accident for any longer time than may be necessary to remove the same, or shall lay any timber, stones, rubbish, or other thing whatever upon such road, to the prejudice, interruption and danger of any person travelling thereon, or if any person shall, after having blocked or stopped any cart, wagon, or other carriage in going up a hill or rising ground, cause to suffer or suffer to lie and remain on such road, any stone or other thing with which such cart or carriage shall have been blocked or stopped, or if any person shall pull down, damage, injure or destroy any lamp or lamp posts put up, erected or placed in or near the side of such Road or toll-houses erected thereon, or shall wilfully extinguish the light of any such lamp, or if any person shall wilfully pull down, break, injure or damage any table of tolls, put up or fixed

Punishment of persons injuring any road, work or property of the Company.

Punishment of persons willfully injuring any road or work.

at

at any toll-gate or bar on any part of such roads, or shall wilfully or designedly deface or obliterate any of the letters, figures or marks thereon, or on any finger post, or any mile post or stone; or if any person shall throw any earth, rubbish or other matter or thing into any drain, ditch, culvert or other water-course, made for draining any such Road, or if any person shall without permission, carry away any stones, gravel, sand or other materials, dirt or soil from any part of any such Road, or dig any holes or ditches on the allowance for the same, or shall forcibly pass or attempt to pass by force any of the toll-gates set up by any such Company, or to use the work constructed by the Company without having first paid the toll fixed by the Directors of such Company to be received at any such gate, such person shall upon conviction thereof in a summary way before any Justice of the Peace in or near the place where the injury shall have been done, be sentenced to pay all damages sustained by such Company, to be ascertained by the said Justice upon the hearing of the said complaint, and also to pay a fine of not more than two pounds ten shillings nor less than five shillings; such damages and fine to be paid either in money, or in the discretion of the said Justice, in labor to be performed upon the Road (if the offence relate to a Road, but not otherwise) under the direction of the said Company, and within a time to be limited by the said Justice, and in default thereof the offender shall be committed to the Common Gaol of the District where such offence shall have been committed, for any time not exceeding one month.

Committal in
default of pay-
ment of fine.

How penalties
under this Act
may be en-
forced.

XXVI. And be it enacted, That the fines and forfeitures authorized to be summarily imposed by this Act, shall and may be levied and collected by distress and sale of the offender's goods and chattels, under the authority of any warrant or warrants of distress for that purpose to be issued by the Justice before whom the conviction shall have been had; and in case there shall be no goods or chattels to satisfy such warrant or warrants, such offender or offenders shall and may be committed to the Common Gaol of the District for any period not exceeding one month.

Punishment of
persons evad-
ing tolls.

XXVII. And be it enacted, That if any person or persons shall, after proceeding on any such Road with any wagon, carriage or other vehicle, or animal liable to pay toll, turn out of the said Road into any other road, and shall enter the said Road beyond any of the said gate or gates without paying toll, whereby such payment shall be evaded, such person or persons shall for every such offence, forfeit and pay the sum of ten shillings, which said sum shall be expended on the said Road or towards the discharge of any debt due by the Company; and any one Justice of the Peace for the District in which such part of the said Road is situate, shall, on conviction of such offender, fine such offender in the said penalty, and shall cause the same to be levied as aforesaid.

Penalty for as-
sisting others
to evade pay-
ment of Tolls.

XXVIII. And be it enacted, That if any person or persons occupying or possessing any enclosed land near any toll-house or toll-gates which shall be erected in pursuance of this Act, shall knowingly permit or suffer any person or persons to pass through such lands, or through any gate, passage or way thereon, with any carriage or animal liable to the payment of toll, whereby such payment shall be evaded, every person or persons so offending, and also the person riding or driving any animal or carriage whereon such payment is evaded, being thereof convicted before any one Justice as aforesaid, shall, for every such offence, severally incur a penalty not exceeding twenty shillings, which shall be laid out in improving such road.

XXIX.

XXIX. And be it enacted, That it shall be lawful for any municipal body corporate, having jurisdiction within the locality through which any such Road shall pass, or in which any such work as aforesaid is to be constructed, to subscribe for, acquire, accept and hold, and to depart with and transfer, stock in any Company to be formed under the authority of this Act, and from time to time to direct the Mayor, or other chief officer thereof, on behalf of such Municipality, to subscribe for such stock in the name of such Municipality, and to act for and on behalf of such Municipality in all matters relative to such stock and the exercise of the rights of such Municipality as a Stockholder, and the Mayor, or other chief officer shall, whether otherwise qualified or not, be deemed a Stockholder in the Company, and may vote and act as such, subject always to such rules and orders in relation to his authority as shall be made in that behalf by such Municipality by their By-laws or otherwise, but acting according to his discretion in cases not provided for by such Municipality; and it shall be lawful for such Municipality to pay for, or to pay all instalments upon the stock they shall subscribe for and acquire, out of any moneys belonging to such Municipality and not specially appropriated to any other purpose, and to apply the moneys arising from the dividends or profits on the said stock or from the sale thereof, to any purpose to which unappropriated moneys belonging to such Municipality may lawfully be applied.

Municipalities may take stock in any such Company.

XXX. And be it enacted, That it shall also be lawful for the Municipality of any locality through which any such Road shall pass, or within which any such work as aforesaid shall be constructed, to loan money to the Company authorized to make such Road or construct such work, out of any moneys belonging to the Municipality and not appropriated to any other purpose, and to effect such loan upon such terms and conditions as may be agreed upon between such Company and the Municipality making such loan, and to recover the money so loaned, and to appropriate the money so recovered to the purposes of such Municipality.

Municipalities may lend money to any such Company.

XXXI. And be it enacted, That it shall be lawful for any Religious Community or Corporation to hold stock in any Company incorporated under this Act, or to lend money to any such Company, any Act or law to the contrary notwithstanding, and to appoint a person or persons to vote for such Community or Corporation upon the shares so held, or to exercise any of its other rights of a member of the Corporation, in such manner as such Community or Corporation and the Company may agree upon.

Religious Communities may hold stock in any such Company.

XXXII. And be it enacted, That after twenty-one years from the time of completing any such Road or other work as aforesaid, it shall and may be lawful for Her Majesty to purchase the stock of such Company at the current value thereof at the time of purchase, (to be ascertained by Arbitrators to be appointed and to act in the manner hereinbefore provided in other cases, if the Company and the Governor cannot agree upon such value,) and to hold the same for the use and benefit of the Province, and the Governor in Council shall thenceforth stand in the place and stead of the said Company, and shall possess all such powers and authority as the said Company shall have theretofore possessed and exercised.

After twenty-one years the Crown may purchase the stock and rights of the Company.

XXXIII. And be it enacted, That in any action or suit brought by or against any such Company upon any contract or for any matter or thing whatsoever, any Stockholder or any officer or servant of the Company shall be competent as a witness, and his testimony shall not be deemed inadmissible on the ground of interest or of his being such servant or officer.

Who may be witnesses in certain cases.

Limitation of actions for things done under this Act.

XXXIV. And be it enacted, That if any action or suit shall be brought against any person or persons for any matter or thing done in pursuance of this Act, such action or suit shall be brought within six calendar months next after the fact committed, and not afterwards, and the defendant or defendants in such action or suit may plead the general issue only, and give this Act and the special matter in evidence on the trial.

Exemptions from Toll.

XXXV. And be it enacted, That all persons, horses or carriages going to or attending or returning from any funeral, or any person with horse or carriage going to or returning from Divine Service on the Lord's Day or on any *fête d'obligation*, shall pass the gates on any Road made or improved under the authority of this Act, free of toll: Provided such persons belong to the Parish in which such Road is constructed.

Proviso.

As to tolls on Roads intersecting those made under this Act.

XXXVI. And be it enacted, That whenever any road to be constructed under the authority of this Act, shall intersect a Road constructed by another chartered Company, no higher rate of toll shall be demanded from the persons travelling along the said last mentioned Road, for the distance travelled between such intersection and either of its termini, than the rate per mile charged by the said Company for travelling along the entire length of their Road so intersected.

Company to keep their Road, &c., in good order.

XXXVII. And be it enacted, That after any Road, Bridge or other such work as aforesaid, constructed by any Company under the authority of this Act, shall have been completed, and tolls been taken thereon, it shall be the duty of the said Company to keep the same in good and sufficient repair, and in case any such Road, Bridge or work shall, by any such Company, be allowed to fall into decay and get out of repair, such Company may be indicted at any Court of General Sessions of the Peace or other Court of Superior Jurisdiction within the District where such Road, Bridge or work shall be so out of repair as aforesaid, and upon conviction, the Court before whom the prosecution shall be had, shall direct such Company to make the necessary repairs, for the want whereof such prosecution shall have been commenced, within such time as to such Court shall seem reasonable; and that in default of such repairs being made in the manner and within the time prescribed by such judgment, such Company shall be declared to be dissolved, and such Road, Bridge or work shall thenceforth be vested in Her Majesty, Her Heirs and Successors, to and for the use of the public, in like manner as any public and common highway or public work, and shall thenceforth be subject to all the laws affecting public highways and public works, and the powers of such Corporation shall thenceforth vest in the Governor in Council.

Penalty for not doing so.

The Legislature may amend this Act so as to protect the public, &c.

XXXVIII. And be it enacted, That notwithstanding the privileges that may be conferred by this Act, the Legislature may at any time hereafter in their discretion and without its being deemed any infringement of such privileges, make such additions to this Act, or such alterations of any of its provisions, as they may think proper for affording just protection to the public; or for protecting any person or persons, body corporate or politic, in respect to their estate, property or right or any interest therein, or any advantage, privilege or convenience connected therewith, or in respect to any way or right of way, public or private, that may be affected by any of the powers given to any such Corporation.

SCHEDULE.

Be it remembered, that on this _____ day of _____, in the year of Our Lord one thousand eight hundred and _____, We, the undersigned Shareholders, met at _____, in the District of _____, in the Province of Canada, and resolved to form ourselves into a Company, to be called (*here insert the Corporate name intended to be taken by the Company*) according to the provisions of a certain Act of the Parliament of this Province, intituled: *An Act, &c., (insert the title of this Act,)* for the purpose of constructing a Plank Road (*or Macadamized or Gravelled Road, or both, as the case may be,*) from (*the commencement of the intended road*) to (*the termination thereof,*) or a Bridge, Wharf, Pier, Slide, (*or other such work as aforesaid, describing the nature, extent and situation thereof,*) and we do hereby declare that the Capital Stock of the said Company shall be _____ pounds, to be divided into _____ shares, at the price or sum of _____ pounds each; and We, the undersigned Shareholders, do hereby agree to take and accept the number of shares set by us opposite to our respective signatures, and we do hereby agree to pay the calls thereon, (*if there be any special agreement as to calls, insert them,*) or according to the provisions of the said in part recited Act, and of the By-laws of the said Company, not being contrary to this agreement or to the said Act, to be made or passed in that behalf; (*state any further agreements or stipulations, as to any other matter which it may be deemed advisable to insert in the instrument rather than leave it to be afterwards regulated by By-law.*)

NAME.	NO. OF SHARES.	AMOUNT.
Valentine Venture.	Twenty.	£100.

CAP. LVII.

An Act to encourage the establishment of Building Societies in Lower-Canada.

[25th April, 1849.]

Preamble.

WHEREAS an Act was passed in the ninth year of Her Majesty's Reign, for the purpose of encouraging the establishment of Building Societies in Upper-Canada, and it is expedient to encourage the formation of similar Societies in Lower-Canada, whenever the Inhabitants of any particular locality may be desirous of availing themselves of the provisions of this Act: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That when and so soon as any twenty persons or upwards in any part of Lower-Canada shall have agreed to constitute themselves a Building Society, and shall have signed and executed, under their respective hands and seals, a declaration of their wish and intention so to constitute themselves such Building Society, and shall have deposited the same with the Clerk or Prothonotary of the Court of Queen's Bench of the District wherein such Building Society is to be formed, and to have its principal Office or place of business, (who for receiving such deposit shall be entitled to receive a fee of two shillings and six pence) such persons and such other persons as may afterwards become members of such Society, and their several and respective heirs, executors, curators, administrators, successors, and assigns, shall be ordained, constituted and declared to be, and shall be a corporation, body corporate and politic, by such name and style as a Building Society, as by such declaration so deposited as aforesaid shall have been declared to be the name by which the persons so executing the same, desire such Society to be known, for the purpose of raising by monthly or other periodical subscriptions of the several members of the said Society, and in shares not exceeding the value of one hundred pounds for each share, (such subscriptions not to exceed twenty shillings per month for each share,) a stock or fund for the purpose of enabling each member thereof to receive out of the funds of the said Society the amount of value of his share or shares therein, to erect or purchase one or more dwelling house or houses, or other freehold or leasehold estate, and to be secured by way of mortgage or otherwise to the said Society until the amount or value of his share or shares shall have been fully paid to the said Society, with the interest thereon, and with all fines or liabilities incurred in respect thereof; and that it shall and may be lawful to and for the several members of such Society, from time to time, to assemble together, and to make, ordain and constitute such proper and wholesome Rules and Regulations for the government and guidance of the same, as the major part of the members thereof so assembled together shall deem meet, so as such Rules shall not be repugnant to the express provisions of this Act, or to the general laws of this Province or of Lower-Canada; and to impose and inflict such reasonable fines, penalties and forfeitures upon the several members of the said Society who shall offend against any such rules, as the majority of the members may think fit, to be respectively paid to such uses for the benefit of the said Society, as the said Society by such Rules shall direct; and also from time to time to amend and alter such rules as occasion may require,

or

When twenty persons shall agree to constitute a Building Society, they shall be a Corporation for that purpose, after having complied with certain formalities.

Society may make rules, &c.

May impose fines on members, &c.

or annul or repeal the same, and to make new rules in lieu thereof, under such restrictions as are in this Act contained ; Provided, that no member shall receive or be entitled to receive from the funds of such Society any interest or dividend by way of annual or other periodical profit upon any share or shares in the said Society until the amount or value of his share or shares shall have been realized ; except on the withdrawal of such member according to the rules of the said Society then in force.

Proviso as to Dividends, &c.

II. And be it enacted, That it shall and may be lawful to and for every such Society to have and receive from any member or members, such sum or sums of money by way of *Bonus* on any share or shares, for the privilege of receiving the same in advance prior to the same being realized, besides interest for the share or shares so received or any part thereof, without being subject or liable on account thereof to any of the forfeitures or penalties imposed by any Act or Acts of Parliament or by any Laws in force in Lower-Canada relating to Usury.

Society may receive money by way of *bonus* without being liable under the Usury Laws.

III. And be it enacted, That each such Society shall and may from time to time, elect and appoint any number of the members of the said Society to be a Board of Directors, (who shall choose a President and Vice-President,) the number and qualification thereof to be declared in the Rules of such Society ; and shall and may delegate to such Directors all or any of the powers given by this Act to be executed ; and such Directors being so elected and appointed shall continue to act for and during such time as shall be appointed by the Rules of such Society, the powers of such Directors being first declared in and by the said Rules ; and in all cases where Directors shall be appointed for any particular purpose, the powers delegated to them shall be reduced to writing and entered in a book by the Secretary or Clerk of the said Society ; and a majority of the number of such Directors present at any meeting thereof shall at all times be necessary to concur in any act of such Directors, and they shall in all things delegated to them, act for and in the name of such Society ; and all acts and orders of such Directors, under the powers delegated to them, shall have the like force and effect as the acts and orders of such Society at any General Meeting thereof could or might have had in pursuance of this Act ; Provided always, that the transactions of such Directors shall be entered in a book belonging to such Society, and shall from time to time and at all times be subject and liable to the review, allowance and disallowance of such Society, in such manner and form as such Society shall by their general Rules have directed and appointed, or shall in like manner direct and appoint.

Society to elect from time to time a Board of Directors.

Certain powers may be assigned to the Directors.

Quorum.

Proviso: Record of transactions to be kept, &c.

IV. And be it enacted, That every such Society so established as aforesaid shall in or by one or more of their said Rules declare all and every the interests and purposes for which such Society is intended to be established ; and shall also in and by such Rules direct all and every the uses and purposes to which the money which shall from time to time be subscribed, paid or given to or for the use or benefit of the said Society, or which shall arise therefrom or in any wise shall belong to the said Society, shall be appropriated and applied ; and in what shares or proportions and under what circumstances any member of such Society, or other person, shall or may become entitled to the same, or any part thereof: Provided that the application thereof shall not in any wise be repugnant to the uses, interests or purposes of such Society, or any of them to be declared as aforesaid ; and all such Rules during the continuance of the same shall be complied with and enforced ; and the moneys so subscribed, paid or given, or so arising to or for the use or benefit of the said Society or belonging thereto, shall not be diverted

Rules to declare purposes for which Society is established, &c.

Proviso as to purposes to which moneys may be applied, &c.

or

or misapplied either by the Treasurer or Directors, or any other officer or member of such Society entrusted therewith, under such penalty or forfeiture as such Society shall by any Rule enforce and inflict for such offence.

Rules to be recorded in a book kept for that purpose, and open to members.

V. And be it enacted, That the Rules for the management of every such Society shall be entered and recorded in a book to be kept for that purpose, which book shall be open at all seasonable times for the inspection of the members of such Society, but nevertheless nothing contained herein shall extend to prevent any alteration in or amendment of any such Rules in the whole or in part, or making any new Rules for the management of such Society, in such manner as by the Rules of the said Society shall from time to time be provided.

Rules to be binding on Members and Officers of Society.

VI. And be it enacted, That all Rules from time to time made and in force for the management of such Society and entered and recorded as aforesaid, shall be binding on the several members and officers of the said Society, and the several contributors thereto, and their representatives, all of whom shall be deemed and taken to have full notice thereof by such entry and record as aforesaid; and the entry of such rules in the book or books of the said Society as aforesaid, or a true copy of the same, examined with the original and proved to be a true copy, shall be received as evidence of such Rules respectively, in all cases.

Rules to be altered, &c., at General Meetings only.

VII. And be it enacted, That no Rule entered as aforesaid shall be altered, rescinded or repealed, unless at a General Meeting of the Members of such Society, convened by public notice written or printed, signed by the Secretary or President of the said Society in pursuance of a requisition for that purpose by not less than fifteen of the Members of such Society, which requisition shall state the objects for which the meeting is called, and shall be addressed to the President and Directors; whereupon each member shall be notified of the proposed alterations through the Post Office, within fifteen days; such meeting to consist of not less than one-third of the shareholders, three-fourths of which meeting must concur in such alterations or repeal.

Rules to specify place of meeting.

VIII. And be it enacted, That the Rules of every such Society shall specify the place or places at which it is intended that the said Society shall hold its meetings, and shall contain provisions with respect to the powers and duties of the members at large, and of such officers as may be appointed for the management of the affairs of the said Society.

Directors to appoint Officers of Society.

IX. And be it enacted, That the Directors of every such Society shall and may from time to time at any of their usual meetings, elect and appoint such person or persons to be Officers of the said Society as they shall think proper, and grant such salaries and emoluments as they may deem fit, and pay such necessary expenses attending the management of the said Society as may be incurred; and shall and may from time to time elect, when it shall be deemed necessary to carry into execution the purposes of the said Society, for such space of time and for such purposes as shall be fixed and established by the Rules of the said Society, and may from time to time discharge such person or persons, and elect and appoint others in the room of those who shall vacate or die or be so discharged; and all and every such officer or other person whatsoever who shall be appointed to any office in any wise touching or concerning the receipt, management or expenditure of any sum of money collected for the purposes of the said

Officers to give security.

said Society, before he shall be admitted to take upon him the execution of any such office or trust, shall become bound in a bond in such form and for such amount as the Directors may determine, with two sufficient sureties, for the just and faithful execution of such office of trust, and for rendering a just and true account according to the Rules of the said Society, and in all matters lawful, to pay obedience to the same.

X. And be it enacted, That it shall and may be lawful for every such Society to take and hold any real estate, or securities thereon, *bonâ fide* mortgaged, assigned or hypothecated to the said Society, either to secure the payment of the shares subscribed for by its members, or to secure the payment of any loans or advances made by, or debts due to such Society, and may also proceed on such mortgages, assignments or other securities, for the recovery of the moneys thereby secured, either at law or in equity or otherwise, and that such Society shall have the power of investing in the names of the President and Treasurer for the time being, any surplus funds in the stocks of any of the Chartered Banks or other public securities of the Province, and that all dividends, interest and proceeds arising therefrom shall be brought to account and applied to and for the use of the said Society according to the Rules thereof.

Society may take and hold real estate, &c., mortgaged to Society, to secure payment of shares.

Investment of moneys.

XI. And be it enacted, That if any person appointed to any office by such Society, and being entrusted with and having in his hands or possession, by virtue of his said office, any monies or effects belonging to such Society, or any deeds or securities relating to the same, shall die or become bankrupt or insolvent, his heirs, executors, curators, administrators or assigns, or other person having a legal right, shall, within fifteen days after demand made by the order of the Directors of such Society or the major part of them, assembled at any meeting thereof, deliver over all things belonging to the said Society, to such persons as the said Directors shall appoint, and shall pay out of the estates, assets or effects of such persons, all sums of money remaining due which such person received by virtue of his said office, before any of his other debts are paid or satisfied, and all such assets, estates and effects shall be bound to the payment and discharge thereof accordingly; Provided always, that the same be not paid or satisfied to the prejudice of mortgages or privileges on real estate, or of liens or privileges on personal estate only, duly executed previous to the appointment of such officer.

Mode of proceeding when an Officer of the Society shall die or become insolvent.

Proviso.

XII. And be it enacted, That all real and heritable property, moneys, goods, chattels and effects whatever, and all titles, securities for money or other obligatory instruments and evidences or muniments, and all other effects whatever, and all rights and claims belonging to or had by such Society, shall be vested in the President and Treasurer of the said Society for the time being, for the use and benefit of the said Society and the respective members thereof, their respective heirs, executors, curators, administrators or assigns, according to their respective claims and interests, and after the death or removal of any President or Treasurer, shall vest in the succeeding President and Treasurer for the same estate and interest as the former President and Treasurer had therein, and subject to the same trusts, without any assignment or conveyance whatever; and also shall for all purposes of action or suit, as well criminal as civil, in law as in equity, in any wise touching or concerning the same, be deemed and taken to be, and shall in every such proceeding (when necessary) be stated to be, the property of the persons appointed to the offices of President and Treasurer of the said Society for the time being, in the proper names of such President and Treasurer, without further description, and such persons shall, and they are hereby authorized to bring or defend

Property of the Society vested in the President and Treasurer for the time being.

And shall be deemed their property for certain purposes.

or

or cause to be brought or defended any action, suit or prosecution, criminal as well as civil, in law or in equity, touching or concerning the property, right or claim aforesaid, of or belonging to or had by the said Society, and in all cases concerning the property, right or claim aforesaid of the said Society, may sue and be sued, plead and be impleaded in their proper names as President and Treasurer of the said Society, without other description, and no such suit, action or prosecution shall be discontinued or abated by the death of such persons or their removal from the offices of President or Treasurer, but shall continue in the proper name of the persons commencing the same, any law, usage or custom to the contrary notwithstanding; and the succeeding President and Treasurer shall have the same rights and liabilities, and shall pay or receive like costs as if the action or suit or prosecution had been commenced in their names, for the benefit of or to be satisfied out of the funds of the said Society.

President and Treasurer may bring actions, &c.

As to their successors.

Secretary, a competent witness.

XIII. And be it enacted, That in all such actions, suits and prosecutions as aforesaid, the Secretary of such Society shall be a competent witness, notwithstanding he may also be Treasurer of the said Society, and that his name may have been used in such action, suit or prosecution as such Treasurer.

Non-liability of the President, &c.

XIV. And be it enacted, That the President, Vice-President and Directors of every such Society shall in their private capacity be exonerated from all responsibility in relation to the liabilities of such Society.

Treasurer to prepare yearly a statement of the funds of the Society. Particulars.

XV. And be it enacted, That the Rules of every such Society shall provide that the Treasurer or other principal Officer thereof shall once at least in every year prepare or cause to be prepared a general statement of the funds and effects of and belonging to the said Society; specifying in whose custody or possession the said funds or effects shall then be remaining, together with an account of all and every the various sums of money received and expended by or on account of the said Society since the publication of the preceding periodical statement; and every such periodical statement shall be attested by two or more members of the said Society appointed Auditors for that purpose, who shall not be Directors, and shall be countersigned by the Secretary or Clerk of the said Society, and every member shall be entitled to receive from the said Society a copy of such periodical statement without charge.

Attestation, &c.

Saving of the rights of the Montreal Building Society, and of the Act 8 V. c. 94.

XVI. And be it enacted, That nothing herein contained shall affect or be construed to effect or interfere with any of the rights or privileges conferred upon the "Montreal Building Society," under the Act passed in the eighth year of Her Majesty's Reign, and intituled, *An Act for the incorporation of certain individuals under the name and style of "The Montreal Building Society,"* nor in any wise to affect the said Act.

Interpretation clause.

XVII. And be it enacted, That the words "Lower-Canada" in this Act shall be understood to mean that part of the Province which formerly constituted the Province of Lower-Canada; the words "Upper-Canada" that part of the said Province which formerly constituted the Province of Upper-Canada; and the word "Society" shall be understood to include and to mean Building Societies and Institutions established under the provisions and authority of this Act; the word "Rules" to include Rules, Orders, By-laws and Regulations; every word importing the singular number shall extend and be applied to several persons or things as well as one person or thing, and bodies corporate as well as individuals; and every word importing the plural number shall

shall extend and be applied to one person or thing as well as several persons or things; and every word importing the masculine gender only, shall extend and be applied to a female as well as a male; the words "Real Estate" shall extend and apply to immoveable estate and property generally; and the word "Securities" shall extend and apply to privileges, mortgages (equitable as well as legal,) *hypothèques* and incumbrances upon real and immoveable estate, as well as to other rights and privileges upon personal estate and property: That this Act shall extend to aliens, denizens and females, both to make them subject thereto and to entitle them to all the benefits given thereby; and that this Act shall be construed in the most beneficial manner for promoting the ends thereby intended.

To whom this Act shall extend.

XVIII. And be it enacted, That this Act shall be deemed a Public Act, and shall extend to all Courts of Law or Equity in this Province, and be judicially taken notice of as such by all Judges, Justices and other persons whatsoever without the same being specially shown or pleaded.

Public Act.

C A P . L V I I I .

An Act to provide for the indemnification of parties in Lower-Canada whose property was destroyed during the Rebellion in the years one thousand eight hundred and thirty-seven, and one thousand eight hundred and thirty-eight.

[25th April, 1849.]

WHEREAS on the twenty-eighth day of February, one thousand eight hundred and forty-five, an humble Address was unanimously adopted by the Legislative Assembly of this Province, and by them presented to the Right Honorable Charles Theophilus Baron Metcalfe, the then Governor-General of the same, praying "that His Excellency would be pleased to cause proper measures to be adopted in order to insure to the inhabitants of that part of this Province formerly Lower-Canada, indemnity for just losses by them sustained during the Rebellion of one thousand eight hundred and thirty-seven, and one thousand eight hundred and thirty-eight;" and whereas on the twenty-fourth day of November, one thousand eight hundred and forty-five a Commission of five persons was, by His Excellency the said Governor-General, duly appointed to enquire into such losses arising from and growing out of the said Rebellion; And whereas it appears by the Report of the said Commissioners, dated the eighteenth day of April, one thousand eight hundred and forty-six, that "the want of power to proceed to a strict and regular investigation of the losses in question, left the Commissioners no other resource than to trust to the allegations of the claimants, as to the amounts and nature of their losses;" And whereas, in order to redeem the pledge given to the sufferers of such losses, or their *bonâ fide* creditors, assigns, or *ayants droit*, as well by the said Address of the said Legislative Assembly, and the appointment of the said Commission, as by the letter addressed by the Honorable the Secretary of the Province, by order of the Right Honorable Charles Murray, Earl Cathcart, the then Administrator of the Government of the same, to the said Commissioners, on the twenty-seventh day of February, one thousand eight hundred and forty-six, it is necessary and just that the particulars of such losses, not yet paid and satisfied, should form the subject

Preamble.

Recital.

Address of 28th February, 1845.

Report of Commissioners, 18th April, 1846.

Secretary's Letter 27th February, 1846.

subject of more minute inquiry under Legislative authority, and that the same, so far only as they may have arisen from the total or partial, unjust, unnecessary or wanton destruction of the dwellings, buildings, property and effects of the said inhabitants, and from the seizure, taking or carrying away of their property and effects, should be paid and satisfied; provided that none of the persons who have been convicted of high treason, alleged to have been committed in that part of this Province formerly the Province of Lower-Canada, since the first day of November, one thousand eight hundred and thirty-seven, or who having been charged with high treason or other offences of a treasonable nature, and having been committed to the custody of the Sheriff in the Gaol of Montreal, submitted themselves to the will and pleasure of Her Majesty, and were thereupon transported to Her Majesty's Islands of Bermuda, shall be entitled to any indemnity for losses sustained during or after the said Rebellion, or in consequence thereof: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That, for the purposes of this Act, it shall be lawful for the Governor in Council to authorize the issue of Debentures, payable out of the Consolidated Revenue Fund of this Province, at or within twenty years after the date thereof, respectively, and bearing interest at the rate of six per cent., payable out of the said Fund on such day in each year as shall be therein specified, provided the total amount of the said Debentures shall not exceed the sum hereinafter mentioned.

Governor in Council may authorize the issue of Debentures for purposes of this Act.

Debentures may be issued in such form as the Governor in Council may deem expedient.

Holders of Debentures under 9 Vic c. 65. may have them exchanged for Debentures under this Act, for a like amount.

Governor in Council may require all Debentures issued under this Act, to be presented for payment in full.

II. And be it enacted, That the said Debentures may be issued in such form and for such separate sums, respectively, as the Governor in Council shall deem expedient, and may be issued either to such parties as shall be willing to advance money for the same, or to parties to whom money shall be awarded for compensation of losses under this Act, or who shall demand them in exchange for Debentures of like amount issued under the Act hereinafter mentioned.

III. And be it enacted, That the holder of any Debenture issued under the authority of the Act passed in the ninth year of Her Majesty's Reign, and intituled, *An Act to provide for the payment of certain Rebellion Losses in Lower-Canada, and to appropriate the proceeds of the Marriage License Fund*, may, on any day on which the interest on such Debenture is payable, have the same exchanged for a Debenture for a like amount to be issued under this Act, and the interest then payable on such Debenture shall at the same time be paid out of the said Consolidated Revenue Fund, and the proceeds of so much of that portion of the Marriage License Fund arising in Lower-Canada as shall not be required to pay off the principal and interest of any unexchanged Debenture, shall form part of the said Consolidated Revenue Fund.

IV. Provided always, and be it enacted, That the Governor in Council may, at any time, by notice in the *Canada Gazette*, require that all the Debentures issued under this Act be presented at a time certain, and not less than six months from the date of such notice, for payment of the principal and interest thereof in full; and such payment shall be made accordingly out of the said Consolidated Revenue Fund, and after the time so appointed no interest shall accrue on the Debentures which shall not be so presented.

V. And be it enacted, That the Debentures issued under this Act shall be distinguished from those issued under other Acts, and that separate accounts shall be kept thereof, and of all money expended under this Act; and that such accounts shall be laid annually before the Provincial Parliament; and that the due application of all money expended under this Act shall be accounted for to Her Majesty, through the Lords Commissioners of Her Majesty's Treasury, in such manner and form as Her Majesty shall please to direct.

Debentures under this Act to be distinguished from those issued under other Acts, &c.

VI. And be it enacted, That it shall be lawful for the Governor to appoint five persons to be Commissioners under this Act, and from time to time to remove them or any of them, and to appoint another or others in the place of any so removed, or dying, or resigning office.

Governor may appoint Commissioners under this Act.

VII. And be it enacted, That each of the said Commissioners shall, before entering upon the duties of his office, take and subscribe, before any Justice of the Peace, the following oath:

Oath to be taken by Commissioners.

"I, _____, swear that I will faithfully and without partiality, fear, favour or affection, perform my duty as Commissioner under the Act, intituled, *An Act, &c.*, (*insert the title of this Act,*) and that I will allow to each claimant under the said Act, neither more nor less than the sum which he is entitled to claim for compensation, according to the true intent and meaning of the said Act. So help me God."

The oath.

Which oath shall be entered on the minutes of the proceedings of the said Commissioners, and make part thereof.

Record of Oath.

VIII. And be it enacted, That it shall be lawful for the Governor from time to time to appoint a Clerk to the said Commissioners, and the same to remove, and in case of any such removal, or of death or of resignation of office of the said Clerk, to appoint another in his place; and the Commissioners and their Clerk, shall receive for their services under this Act, and for their necessary expenses and disbursements, such compensation as shall be allowed by the Governor in Council, and no other fees or emoluments whatsoever; and such compensation shall be defrayed out of the said Consolidated Revenue Fund.

A Clerk may be appointed.

Remuneration of Commissioners and their Clerk.

IX. And be it enacted, That the amount of the Debentures to be issued under this Act, and the amount of the said compensation to be allowed to the said Commissioners and Clerk, shall not exceed the sum of one hundred thousand pounds currency, which sum shall also include the sum of nine thousand nine hundred and eighty-six pounds, seven shillings and two pence, raised by Debentures issued under the said Act hereinbefore mentioned.

Amount of Debentures, &c., not to exceed £100,000 currency, including those under 8 V. c. 65.

X. And be it enacted, That it shall be the duty of the said Commissioners faithfully and without partiality to enquire into and to ascertain the amount of the losses mentioned in the Preamble to this Act, as those for which compensation ought to be made, and to report the same to the Governor of this Province.

Duty of Commissioners.

XI. And be it enacted, That the powers vested in, and duties required of, the said Commissioners, or of any three of them, under this Act, shall also extend and be construed

Powers and duties of the Commissioners.

to extend to
certain cases.

construed to extend to inquire into all such losses sustained by Her Majesty's subjects and other residents within the said late Province of Lower-Canada, and the several claims and demands which have accrued to any such persons by such losses, in respect of any loss, destruction, or damage of property occasioned by violence on the part of persons in Her Majesty's service, or by violence on the part of persons acting or assuming to act on behalf of Her Majesty, in the suppression of the said Rebellion, or for the prevention of further disturbances, and all claims arising under or in respect of the occupation of any houses or other premises by Her Majesty's Naval or Military forces, either Imperial or Provincial; subject always to the limitations and exceptions contained in the Preamble of this Act.

Commissioners
to hold their
sittings at such
times and
places as Go-
vernor may
direct.

XII. And be it enacted, That the Commissioners appointed under this Act, shall hold their sittings publicly at such places and times, and for such counties, parishes or other territorial divisions respectively, as the Governor in Council shall from time to time direct and notify to them through the Provincial Secretary, and shall give such public notice of their said meetings as they shall in like manner be required to give; and at such meetings any three of the said Commissioners shall be a *quorum*, and any report, award or proceeding in which three of the Commissioners shall concur, shall be deemed to be made or done by the Commissioners; Provided always, that no sitting of the said Commissioners shall be held after the first day of September, one thousand eight hundred and fifty, and no claim shall be received by them after the first day of May, one thousand eight hundred and fifty.

Proviso.

Commissioners
to have power
to summon and
examine upon
oath persons
appearing be-
fore them.

XIII. And be it enacted, That the said Commissioners shall have full power and authority to examine upon oath (which oath any one of them may administer) any person who shall appear before them, either as a claimant or as a witness for or against any claim, or for the better information of the Commissioners concerning the same; and shall have full power and authority to summon before them any person or party whom they may deem it expedient to examine touching any claim, and to require him to bring with him, and produce any book, paper, instrument, document or thing mentioned in the summons, and supposed to be necessary to the determination of any such claim; and if any person or party so summoned shall, after due notice, refuse or neglect to attend before them, or being so summoned and attending, shall refuse to answer any lawful question put to him by the Commissioners, or any one of them, or to bring and produce any book, paper, instrument, document or thing in his possession, which he shall by the summons, have been required to bring with him and produce, the said Commissioners may cause such person or party, if not already before them, to be apprehended and brought before them, and may, in their discretion, commit him to the common gaol of the District, for a period not exceeding three months; and any person making any wilfully false statement on oath before the said Commissioners or any one of them, shall be adjudged guilty of wilful and corrupt perjury; provided always, that no claim shall be allowed upon the oath of the claimant, unless he shall be corroborated in all the important particulars by indifferent and unsuspected witnesses, or other testimony.

Penalty on
parties sum-
moned and
not attending,
&c.

Wilful false
statements to
be perjury.
Proviso.

Commissioners
to report their
proceedings to
Governor, on
or before Sept.
1850.

XIV. And be it enacted, That the said Commissioners shall, on or before the first day of September, one thousand eight hundred and fifty, report their proceedings to the Governor, stating more especially the sum they shall have allowed, for such losses as aforesaid, to each claimant respectively; and if the total amount of the sums so allowed,

allowed, and the said sum of nine thousand nine hundred and eighty-six pounds seven shillings and two pence, and the expenses incurred under this Act, shall exceed the sum of one hundred thousand pounds, then the expenses incurred under this Act shall be first provided for, and secondly the said sum of nine thousand nine hundred and eighty-six pounds seven shillings and two pence, and the remaining sum shall be distributed among the claimants in proportion to the sums allowed to them respectively, by the Commissioners or any three of them.

Provision—if the amount appropriated be insufficient to pay all claims.

C A P. L I X.

An Act to repeal the Ordinances relative to Winter Roads in Lower-Canada, in so far as regards the Districts of Quebec and Gaspé, and part of the District of Three-Rivers.

[30th May, 1849.]

WHEREAS it is expedient to amend the Ordinances of the Legislature of the late Province of Lower-Canada, relative to Winter Roads, so as to exempt from the operation thereof, the District of Quebec, the District of Gaspé and that part of the District of Three-Rivers, which extends on the south-side of the River Saint Lawrence from the District of Quebec up to the Parish of Nicolet exclusively, and on the north-side up to the Town of Three-Rivers inclusively : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the passing of this Act, so much of the Ordinance of the Legislature of the late Province of Lower-Canada, passed in the Session held in the third and fourth years of Her Majesty's Reign, intituled, *An Ordinance to provide for the improvement, during the Winter Season, of the Queen's Highways in this Province, and for other purposes*, or of the Ordinance of the said Legislature, passed in the fourth year of Her Majesty's Reign, intituled, *An Ordinance to amend the laws relative to Winter Roads*, as enacts that no *cariole, traine, berline*, or other winter vehicle other than the sleighs described in the said Ordinances, shall be used on any of the Queen's Highways or public roads in that part of the Province heretofore Lower-Canada, shall be, and so much of the said Ordinances is hereby repealed in so far as regards the District of Quebec, the District of Gaspé, and that part of the District of Three-Rivers which extends on the south-side of the River Saint Lawrence from the District of Quebec up to the Parish of Nicolet exclusively, and on the north-side up to the Town of Three-Rivers inclusively ; but shall remain in force in all other parts of Lower-Canada.

Preamble.

Part of the Ordinances 3 & 4 V. c. 25, and 4 V. c. 33, repealed as to certain parts of L. C.

C A P. L X.

An Act to prohibit the use of Strychnine and other poisons, for the destruction of certain kinds of wild animals.

[30th May, 1849.]

Preamble.

WHEREAS there are parties who are in the habit of using Strychnine and other deadly poisons, as a substitute for the ordinary means of ensnaring or killing foxes, martens and other wild animals, in the forests and other parts of this Province, without regard to the destruction thereby caused among domestic animals, which have been found dead in great numbers, wherever such poisons have been used for the purpose aforesaid; And whereas in addition to the mischief above mentioned, the practice aforesaid tends to the total destruction of various species of wild animals, the fur whereof forms an important article in the trade of the Province: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That no person shall use any Strychnine or other poison of any kind, mineral or vegetable, commonly known as deadly poison, as a means of killing or catching any fox, marten, or other wild animal of any kind, or shall place any such poison, whether concealed in food or otherwise, in any place where it may be found by any such wild animal; and for each and every offence against the provisions of this Section, the offender shall incur a penalty of Ten pounds currency, and shall if the same be not forthwith paid upon his conviction, be committed to Gaol for a period not exceeding three months, or until such penalty and the costs of prosecution shall be paid.

Penalty on persons using poison as a means of destroying wild animals.

Penalty on Apothecaries and others selling poison to any person not furnished with a proper certificate.

II. And be it enacted, That no apothecary, chemist, druggist, vendor of medicines or other person in this Province, shall sell or deliver any arsenic, corrosive sublimate, strychnine, or other poison, mineral or vegetable, simple or composite, commonly known as deadly poison, or which being incautiously or secretly administered, may cause immediate death, to any person who shall not then produce and deliver a certificate or note from some Justice of the Peace, Physician, Priest or Minister of religion, resident in the locality, addressed to such apothecary, chemist, druggist, vendor of medicines or other person, and mentioning the name, residence, calling or profession of the person requiring such arsenic, corrosive sublimate, strychnine or other such poison as aforesaid, and stating the purpose for which it is required, and that it ought to be sold to the person requiring the same; and such certificate or note shall be kept by the person selling or delivering such poison as his justification for so doing; and any apothecary, chemist, druggist, vendor of medicines, or other person who shall contravene the provisions of this Section, shall for each offence incur a penalty not exceeding Ten pounds currency, and shall, if such penalty be not forthwith paid upon conviction, be committed to Gaol for a period not exceeding three months or until such penalty and the costs of prosecution shall be paid.

Recovery of penalties under this Act.

III. And be it enacted, That the penalties imposed by this Act shall be recoverable, with costs, in a summary manner before any one Justice of the Peace, on the oath of any

any one or more credible witness other than the prosecutor, and the prosecution may be commenced at any time within six months after the offence committed; and one moiety of the penalty shall belong to the prosecutor, and the other moiety to Her Majesty, for the public uses of the Province.

IV. Provided always, and be it enacted, That the provisions of this Act shall not be in force in that part of the Province heretofore called Upper-Canada.

Act not to extend to U. C.

CAP. LXI.

An Act to amend and extend certain provisions of *An Act to facilitate the Partition of Lands, Tenements, and Hereditaments, in certain cases, in Lower-Canada.*

[1st February, 1849.]

WHEREAS it is expedient, for the furtherance of the ends of Justice, to amend and extend the provisions of the Act passed in the Session of the Parliament of this Province, which was held in the tenth and eleventh years of the Reign of Her Majesty, intituled, *An Act to facilitate the Partition of Lands, Tenements, and Hereditaments in certain cases, in Lower-Canada*, and to repeal certain provisions thereof: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That whenever any Petitioner claiming an interest in any lands, tenements and hereditaments, to facilitate the Partition of which provision is made by the said Act, and demanding a Partition of such lands, tenements and hereditaments, under the provisions of the said Act, shall, by *prima facie* evidence have satisfied the Court of Queen's Bench for the District in which such lands, tenements and hereditaments are situated, that he is seized of lands and tenements held by him in common with others, in the manner mentioned in the said Act, it shall be lawful for the said Court, and the said Court is hereby required, in making, pronouncing, and rendering the judgment or order provided for by the second Section of the said Act, to order and direct that such judgment or order shall be posted up and published in the manner provided by the second Section of the said Act, at least six months before the time appointed in and by such judgment and order, for the appearance of the co-tenants of the said Petitioner, and of such other persons as may by law have a right to be maintained in possession of any portion or portions of such lands, tenements and hereditaments, or as may have an interest in the Partition thereof, for the purposes specified in the said Act.

Preamble.

10 & 11 V. c. 37 cited.

When a Petitioner demands a Partition of lands, Court in rendering judgment may order the same to be posted up for six months before time appointed for appearance of co-tenants of Petitioner.

II. And be it enacted, That all proceedings upon any Petition which, pursuant to the provisions, or under color of the said Act, may, since the passing thereof, have been presented or exhibited to any such Court, and upon which any judgment or order, such as it was lawful for such Court to pronounce, give or make under the provisions of the said second Section of the said Act, may have been pronounced, given or made, shall be suspended from and after the day appointed in such judgment or order for the

All proceedings under Act hereby amended, suspended until 1st day of Term of Court after 1st May, 1849.

appearance

Proviso:
Time to be
given to par-
ties interested
in any Peti-
tion already
filed under the
said Act, to
oppose, &c.

appearance of the parties interested, and for making and exhibiting by them their claims or demands in intervention, up to and until the first day of the Term of such Court which shall be held next after the first day of May of the present year one thousand eight hundred and forty-nine; Provided nevertheless, that it shall be lawful for any such co-tenant or for any other party who may have an interest in the lands, tenements and hereditaments, referred to in such judgment or order, and who shall have made or exhibited his claim or demand in intervention upon the day appointed by any such order or judgment, to amend or extend his claim or demand in intervention, and file any Titles, Deeds, or other documents in support thereof, either before such Court sitting in Term, or in the Office of the Prothonotary of such Court in vacation, at any time on or before the said first day of the Term of such Court which shall be held next after the said first day of May of the present year one thousand eight hundred and forty-nine; and also at any time on or before the said first day of such Term, to except, answer or plead to any such Petition, or to controvert the allegations thereof, as fully and effectually as he might do or have done on the day appointed in such order or judgment for the making and filing of such claims or demands in intervention, and it shall also be lawful for any such co-tenant or for any other person who may have an interest in such lands, tenements and hereditaments referred to in such judgment or order to file his claim or demand in intervention in that behalf at any time on or before the said first day of such term, and to except, answer or plead to any such petition within the usual delays to be accounted and reckoned from the day of the filing of such claim or demand in intervention.

The Act here-
by amended
and this one,
Public Acts.

III. And be it declared and enacted, That the said Act hereby amended, and the present Act, are Public Acts, and shall be taken cognizance of as such by all Her Majesty's Courts in the Province.

Provisions of
the said Act,
inconsistent
with this, re-
pealed.

IV. And be it enacted, That all the provisions of the said Act, hereby amended, which are repugnant to or inconsistent with this Act, shall be, and are hereby repealed.

Interpretation
Act to apply
to this.

V. And be it enacted, That the Interpretation Act shall apply to this Act.

C A P. L X I I.

An Act to provide a Legal Mode of Redress in cases of Trespass committed on Lands held in Common in certain Townships in Lower-Canada.

[30th May, 1849.]

Preamble.

WHEREAS by an Act passed in the eleventh year of Her Majesty's Reign, intituled, *An Act to facilitate the Partition of Lands, Tenements and Hereditaments in certain cases in Lower-Canada*, certain provisions were made and enacted, for the purpose of enabling the co-tenants in common, seized of lands, tenements and hereditaments in the Townships therein mentioned, to effect a partition of the same; And whereas divers trespasses have been and continue to be committed on the said lands, by felling and removing large quantities of timber of great value from the same, for which trespasses, and for the recovery of the timber removed as aforesaid, no civil legal redress can be obtained by reason of the great number of the said co-tenants in common, and the impracticability of uniting them as co-plaintiffs in actions to be brought for

for obtaining such redress; And whereas it is expedient and necessary, until a partition of the said lands shall be effected, and in the mean time, to protect the rights and interest of the said co-tenants from and against the lawless depredations aforesaid, and afford them relief in the premises: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall and may be lawful for any one or more of such co-tenants in the said Townships, or any of them, to institute and maintain, in his or their own name or names, for him or them, and his or their co-tenants in common, all possessory actions, and actions of revendication, grounded on trespasses committed or that may hereafter be committed on the said lands, and the removal of timber and wood from and off the same, without joining with him or them as co-plaintiffs in the said actions, the other co-tenants in common of and in the said lands; and the action or actions to be instituted by such co-tenant or co-tenants for him or them and his or their co-tenants in common, shall and may be prosecuted with the same effect to all intents and purposes whatsoever, as if such actions were brought in the names of all the co-tenants of and in the said lands; any law, usage or custom to the contrary notwithstanding.

Certain actions may be brought by one or more co-tenants on behalf of himself and others.

II. Provided always, and be it enacted, That all and every the damages, sum and sums of money, timber, goods and chattels, benefits and advantages, which shall or may be recovered or obtained by such co-tenant or co-tenants as aforesaid, in any such actions, to be brought as aforesaid, shall be held to have been recovered and obtained, for the benefit of all the co-tenants in common of and in the said lands, according to their respective shares, rights and interests in the same, to whom the said co-tenant or co-tenants shall be accountable accordingly; And provided also, that judgment shall not be rendered in any such action until after the plaintiff shall have given security to the satisfaction of the Court in which such action shall have been instituted, that he will duly account to his co-tenants whenever required by them or any of them so to do, for all such sums of money, timber, goods and chattels, benefits and advantages which the plaintiff shall or may recover or obtain under such judgment.

Sums or things recovered to be for the benefit of all.

Plaintiff to give security.

III. And be it enacted, That this Act shall be a Public Act.

Public Act.

CAP. LXIII.

An Act to make further provision for the Administration of Justice, by the establishment of an additional Superior Court of Common Law and also a Court of Error and Appeal, in Upper-Canada, and for other purposes.

[30th May, 1849.]

WHEREAS the establishment of an additional Superior Court of Common Law jurisdiction would facilitate the satisfactory disposal of business, and would otherwise tend to promote the public advantage by affording the means of constituting an efficient Court of Appeal within Upper-Canada: Be it therefore enacted by the Queen's

Preamble.

Court of common pleas established in Upper-Canada; Powers of the Court and Judges.

Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That there be constituted and established and there is hereby constituted and established a Court of Common Law jurisdiction in that portion of this Province formerly called Upper-Canada, which shall be called "The Court of Common Pleas," and the same Court shall be holden at the City of Toronto, and shall be and constitute a Court of Common Law, and shall together with every Judge thereof, have, use and exercise all the rights, incidents and privileges of a Court of Record, or a Judge of a Court of Record, and all other rights, incidents and privileges, as fully to all intents and purposes as the same are used, exercised and enjoyed by any of Her Majesty's Superior Courts of Common Law or Judges at Westminster.

Court to consist of a Chief Justice and two Puisné Judges. Who may be appointed.

II. And be it enacted, That the said Court shall be presided over by a Chief Justice and two Puisné Justices, any one or more of whom, in the absence of the other or others of them may lawfully hold the said Court: And that it shall and may be lawful for Her Majesty to appoint by Letters Patent under the Great Seal of this Province, one person being a Barrister of at least ten years' standing in Upper-Canada to be Chief Justice of the said Court, and two persons being Barristers of not less than ten years' standing in Upper-Canada to be Puisné Judges thereof, and from time to time to supply any vacancy in the number of the said Judges; and the Chief Justice of the said Court of Common Pleas shall have rank and precedence next to the Chancellor of Upper-Canada, and the Puisné Judges of the Superior Courts of Common Law and Equity in Upper-Canada shall have rank and precedence as between themselves according to seniority of appointment to their respective offices.

Rank and precedence of Judges.

Recital.

III. And whereas in an Act of the Parliament of the late Province of Upper-Canada, passed in the seventh year of the Reign of His late Majesty King William the Fourth, intituled, *An Act to increase the present number of Judges of His Majesty's Court of King's Bench in this Province, to alter the terms of sitting of the said Court, and for other purposes therein mentioned*, it is recited, that an addition to the number of the Judges of the said Court had become indispensable owing to the great increase of population and the formation of new Districts; And whereas two additional Judges were appointed under the said Act: And whereas it appears that the business of the said Court of Queen's Bench may be effectually performed by a Chief Justice and two Puisné Judges, in consequence of the erection of the Court of Common Pleas hereby established and the erection of an efficient Court of Appeal as hereinafter provided: Be it therefore enacted, That notwithstanding any thing in the said last recited Act contained, the said Court of Queen's Bench shall from and after the passing of this Act, be presided over by a Chief Justice and two Puisné Justices; and it shall and may be lawful for Her Majesty to transfer such two of the Puisné Justices of the said Court of Queen's Bench as to Her Majesty may seem meet from the said Court of Queen's Bench to the said Court of Common Pleas, and by Letters Patent under the Great Seal of this Province to appoint such two Puisné Justices of the said Court of Queen's Bench to be Justices of the said Court of Common Pleas, to which appointment such two Justices of the said Court of Queen's Bench are hereby declared entitled.

Act of U. C. 7 W. 4, c. 1.

Court of Q. B. to consist hereafter of a Chief Justice and two Puisné Judges.

Two of the Puisné Judges of Q. B. to be transferred to the Court of C. P.

IV.

IV. And be it enacted, That the Judges to be appointed under this Act shall hold their offices during their good behaviour : Provided always, that it may be lawful for the Governor, Lieutenant-Governor, or person administering the Government of this Province, to remove any Judge or Judges of the said Court upon the address of both Houses of the Provincial Parliament ; and in case any Judge so removed shall think himself aggrieved thereby, it shall and may be lawful for him within six months to appeal to Her Majesty in Her Privy Council, and such a motion shall not be final until determined by Her Majesty in Her Privy Council.

Tenure of office, and provision for removal on address of both Houses of the Legislature.

Appeal given.

V. And be it enacted, That from and after the passing of this Act, there shall and may be paid and payable out of the Consolidated Revenue Fund of this Province, (after paying or reserving sufficient to pay all such sums as have been directed by any former Act of the Legislature of this Province to be paid out of the same, but with preference to all other payments which shall hereafter be charged upon the same,) the yearly sums following, as and for the salaries of the said Judges, viz : to the Chief Justice of the said Court, the sum of One thousand two hundred and fifty pounds, and to each of the Puisné Justices, the sum of One thousand pounds ; which said sums shall be paid from time to time quarterly, free and clear from all taxes and deductions whatsoever, on the first day of January, the first day of April, the first day of July, and the first day of October, by equal portions ; the first payment to be made on the first of such days respectively as shall occur after the appointment of the Judge entitled to receive the same ; and that if any person hereafter appointed to any of such Offices shall die or resign the same, the executor or administrator of the person so dying, or the person so resigning shall be entitled to receive such proportionable part of the salary aforesaid as shall have accrued during the time that such person shall have executed such Office since the last payment, and that the successor of such person so dying or resigning shall be entitled to receive such portion of the salary as shall be accruing or shall accrue from the day of his appointment.

Salaries of the Chief Justice and Judges of the court of C. P.

How to be paid, &c.

Case of death, or resignation provided for.

VI. And be it enacted, That it shall and may be lawful for Her Majesty, by any Letters Patent under the Great Seal of this Province, to give and grant unto any of the Judges, appointed in pursuance of this Act, an annuity equal to two-thirds of the salary annexed to such Judge under the provisions of this Act, to commence and take effect immediately after the period when the person to whom such annuity shall be granted shall resign his said office of Judge of the said Court, and to continue from thenceforth during the natural life of the person to whom the same shall be granted ; and such annuity shall be issued and payable out of and charged and chargeable upon the Consolidated Revenue Fund of this Province next in order of payment to, and after paying or reserving sufficient to pay all such sums of money as by any Act or Acts of the Parliament of this Province now in force have been directed to be paid thereout, but with preference to all other payments which shall hereafter be charged upon or payable out of the same fund ; and such annuity shall be paid quarterly free from all taxes and deductions whatsoever on the four usual days of payment aforesaid in each year ; and the first quarterly payment, or a proportionate part thereof, to be computed from the time of the resignation of his said Office shall be made on such of the said days as shall next happen after the resignation of the said Office ; and that the executors or administrators of the person to whom the said annuity shall be granted as aforesaid, shall be paid such proportionate part of the said annuity as shall accrue from the commencement, or the last quarterly payment thereof, as the case may be, to the

Annuity may be granted to Judges appointed under this Act in certain cases.

How payable, &c.

Case of death provided for.

Proviso: in what cases only annuity may be granted.

the day of his death : Provided always, that no annuity granted to any Judge appointed under this Act shall be valid, unless such person shall have continued in the said Office, or in the said Office and the Office of a Judge of one or more of Her Majesty's Superior Courts of Common Law or Equity in Upper-Canada for the period of fifteen years, or shall be afflicted with some permanent infirmity disabling him from the due execution of his Office, which shall be recited in the Grant.

Judges appointed under this Act to take an oath of office.
The oath.

VII. And be it enacted, That every Judge to be appointed in pursuance of this Act, shall, previous to his executing the duties of his Office, take the following oath :

“ I, do solemnly and sincerely promise and swear, that I will
“ duly and faithfully, and to the best of my skill and knowledge, execute the powers
“ and trusts reposed in me (as Chief Justice or one of the Puisné Judges) of the Court
“ of Common Pleas. So help me God.”

How administered.

Which said oath shall be administered to the Chief Justice of the said Court before the Governor, Lieutenant-Governor, or person administering the Government of this Province in Council, and to the Puisné Judges of the said Court, in open Court, in presence of the Chief Justice thereof.

Recital.

VIII. And whereas it is desirable that the jurisdiction, practice and mode of proceeding of the said Court of Common Pleas should be similar to the jurisdiction, practice and course of proceeding of the said Court of Queen's Bench : Be it enacted, That the said Court of Common Pleas may and shall hold plea in all and all manner of actions, causes or suits, as well criminal as civil, arising, happening or being within the said late Province of Upper-Canada ; and may and shall proceed in such actions, causes or suits, by such process and course as is now used, or is by this Act directed to be used in the said Court of Queen's Bench, save only that all Writs and proceedings shall be styled in the said Court of Common Pleas ; and the said Court of Common Pleas may and shall hear and determine all matters of Law, and shall also hear and, by and with an inquest of good and lawful men, determine all issues of fact that may be joined in any such action, cause or suit as aforesaid, and judgment thereon give, and execution thereof award, in as full and ample a manner as can or may be done in Her Majesty's said Court of Queen's Bench : And the same jurisdiction, powers, authorities and privileges exercised and enjoyed by the said Court of Queen's Bench, or by the Judges thereof, shall be exercised and enjoyed by the said Court of Common Pleas and by the Judges thereof respectively : And all laws, orders and authorities touching the practice and manner of proceeding in the said Court of Queen's Bench, shall be in force and applicable to the said Court of Common Pleas until otherwise provided by rule of the said Court.

Jurisdiction and powers of and mode of proceeding in the court of C. P. to be the same as in the court of Q. B.

Juries.

Laws, orders, &c., applicable to Q. B. to apply to C. P. until it be otherwise provided.

Judges of the two courts to sit in rotation : provision as to things which may be done by a single Judge.

Proviso: appeal to the full court saved.

IX. And be it enacted, That the Chief Justices and Judges of the said Courts of Queen's Bench and Common Pleas shall sit in rotation, or otherwise, as they shall agree amongst themselves, and every Judge of either Court, to whatever Court he may belong, shall be, and he is accordingly hereby authorized to transact such business at Chambers or elsewhere, depending in either of such Courts, as may according to the course and practice of the said Courts be transacted by a single Judge: Provided always, that nothing herein contained shall be construed to deprive any party interested of the right to appeal to the full Court in which the matter brought before such single Judge

Judge may be depending, for the purpose of having the decision of such Judge rescinded or altered, as fully as such right is now enjoyed according to the practice of the Court of Queen's Bench.

X. And whereas by the said Act of the Legislature of the late Province of Upper-Canada, passed in the seventh year of the Reign of His late Majesty King William the Fourth, intituled, *An Act to increase the present number of Judges of His Majesty's Court of King's Bench in this Province; to alter the terms of sitting of the said Court, and for other purposes therein mentioned*, it was deemed expedient for the more convenient despatch of business to enable one of the Judges of the said Court of Queen's Bench to sit apart during term for the decision of certain matters therein specified; and whereas under the present arrangement the continuance of the said provision is inexpedient: Be it enacted, That so much of the fifth clause of the said last recited Act as provides for the formation of a Practice Court is hereby repealed from the time that this Act takes effect.

Recital.

Act of U. C. 7
W. 4. c. 1.Part of sec. 5,
of the said Act
repealed.

XI. And whereas it is expedient to alter the office of the Clerk of the Crown and Pleas in the said Court of Queen's Bench in Upper-Canada, and to alter the manner of remunerating the said Clerk, and to place the said Office on the same footing as the Office of the Clerk of the Crown and Pleas in the said Court of Common Pleas hereby established: Be it enacted, That it shall and may be lawful for Her Majesty, by Letters Patent under the Great Seal of this Province, to appoint a Clerk of the Crown and Pleas in the said Courts of Queen's Bench and Common Pleas, respectively, to hold Office during Her Majesty's pleasure, and from time to time to supply any vacancy in the said offices; and that it shall be lawful for each of the said Clerks of the Crown and Pleas, to appoint, subject to the approval of the Judges of their respective Courts, a Senior and Junior Clerk; and the said Clerks of the Crown and Pleas, with the like approval, may remove at pleasure any of the Clerks so appointed: And that the several Clerks of the County Courts in Upper-Canada, shall be *ex-officio* Deputy-Clerks of the Crown and Pleas in the said Courts of Queen's Bench and Common Pleas: Provided always, that the parties who at the time of the passing of this Act shall hold the offices of Deputy-Clerks of the Crown in the several Districts shall continue to hold the same at the pleasure of the Crown, and that while so holding the same they shall respectively discharge the duties of Deputy-Clerks of the Pleas for their several Districts and that they shall hold such Offices as Deputy-Clerks of the Crown and Pleas subject to the provisions and receiving the remuneration mentioned in this Act.

Recital.

A Clerk of the
Crown and
pleas to be ap-
pointed in
each Court.Tenure of
office, &c.Clerks to be
appointed by
them.Clerks of
county courts
to be their
deputies.Proviso:
present deputy-
clerks of the
Crown to re-
main so during
pleasure, and
be also deputy-
clerks of the
pleas.Duties of the
said clerks of
the Crown and
Pleas.

In C. P.

Certain orders
rules, &c., of
Q. B. to apply
to the clerk of

XII. And be it enacted, That the said Clerk of the Crown and Pleas in the said Court of Queen's Bench, and his Deputies shall perform the duties of their several Offices in the same manner and under the same regulations as the said Clerk of the Crown and Pleas and his Deputies in the said Court of Queen's Bench have heretofore performed the same, and that all sums and fees shall continue to be payable and receivable by the like persons as the same have heretofore been paid and received in respect of any matter in the said Court of Queen's Bench; and that the said Clerk of the Crown and Pleas in the said Court of Common Pleas and his Deputies shall respectively perform in the said Court the like duties as are performed by the Clerk of the Crown and Pleas and his Deputies in the said Court of Queen's Bench; and all orders, rules and regulations in force respecting the said Clerk of the Crown and Pleas of the said Court of Queen's Bench and his Deputies, and respecting the regulation of their several

the crown and
pleas in C. P.

Fees.

Salaries to be
paid to the
said clerks out
of the public
moneys.

The salaries.

Governor in
council to fix
the salaries of
the Deputy-
Clerks.

Times of pay-
ment, &c.

Provision of
case of vacan-
cy by death,
&c.

The said
clerks and
deputies to
take no fee or
emolument for
themselves,
except their
salaries.

Fees, dues,
&c. received
by them to
belong to the
Province.

Accounts to be
rendered
quarterly by
the said clerks.

How attested.

Money to be
paid over.

several Offices, shall be in force and applicable to the said Clerk of the Crown and Pleas in the said Court of Common Pleas and his Deputies respectively, and that the like sums and fees payable and receivable in the said Court of Queen's Bench shall be payable and receivable by the like persons in the said Court of Common Pleas in respect of any matters in the said Court.

XIII. And be it enacted, That from and after the passing of this Act, there shall and may be paid and payable out of the Consolidated Revenue Fund of this Province, (after paying or reserving sufficient to pay all such sums as have been directed by any former Act of the Parliament of this Province to be paid out of the same, but with preference to all other payments which shall hereafter be charged upon the same,) the yearly sums following, as for the salaries of the said Clerks, viz: To the Clerk of the Crown and Pleas, in each of the said Courts, the sum of four hundred pounds; to each of the Senior Clerks, the sum of two hundred and fifty pounds; to each of the Junior Clerks, the sum of one hundred and fifty pounds; and that the Deputy-Clerks of the Crown in the several Districts shall be paid by a certain salary in no case more than one hundred pounds or less than twenty pounds; and the Governor, Lieutenant-Governor, or person administering the Government of this Province for the time being in Council shall fix the remuneration to be paid to the Deputy-Clerks of the Crown respectively; which said sums shall be paid from time to time quarterly, free and clear from all taxes and deductions whatsoever on the four usual quarterly days hereinbefore mentioned, provided that the payment to be made in each case on the first of the said quarterly days which shall happen after the accrual of the right thereunto of the person receiving the same under this Act, shall be a rateable proportion of a quarter's salary according to the time then elapsed since the accrual of such right: and in case of a vacancy in the Office of any such Clerk, the person making the vacancy, his executors or administrators shall be entitled to a proportional part of his salary according to the time elapsed between the vacancy and the last quarterly payment.

XIV. And be it enacted, That neither the Clerk of the Crown and Pleas in the said Court of Queen's Bench, nor the said Clerk of the Crown and Pleas in the said Court of Common Pleas, nor any of their Deputies, shall be entitled to, or take for his own use or benefit, directly or indirectly, any fee or emolument whatsoever save the salary to which he shall be entitled by virtue of this Act; and that all the fees, dues, emoluments, perquisites and profits received by or on account of the said Clerks of the Crown and their Deputies, respectively, shall form part of the Consolidated Revenue Fund of this Province, and shall be accounted for to Her Majesty, Her Heirs and Successors through the Lords Commissioners of Her Treasury for the time being, in such manner and form as Her Majesty, Her Heirs and Successors shall direct.

XV. And be it enacted, That the said Clerks of the Crown and Pleas, in each of the said Courts respectively, shall, on the four quarterly days hereinbefore mentioned, make up and render to the Inspector-General of Public Accounts of this Province, a true Account in writing of all the fees, dues, emoluments, perquisites and profits received by or on account of the said Officers respectively, in such form and with such particulars as the said Inspector-General shall from time to time require; which said Accounts shall be signed by the Officer rendering the same, and shall be declared before one of the Judges of the Court to which he belongs; and such Officers respectively shall, within ten days after the rendering of such Account pay over the amount of all such fees, dues, emoluments,

emoluments, perquisites and profits to the Receiver-General of this Province, and if default shall be made in such payment, the amount due by the Officer making such default shall be deemed a specialty debt to Her Majesty.

XVI. And be it enacted, That the Clerks of the County Courts in Upper-Canada, acting as the Deputies of the Clerks of the Crown and Pleas in the said several Courts of Queen's Bench and Common Pleas, shall make up and render to the Inspector-General of this Province the like Accounts, in like manner, and at the same periods hereinbefore appointed for the said Clerks of the Crown and Pleas respectively, which said Accounts shall be signed by the Officer rendering the same, and shall be declared before the Judge, of the County Court to which he belongs; and every such Officer shall, within ten days after the rendering such Account, pay over the amount of all fees, dues, emoluments, perquisites and profits received by him as such Deputy-Clerk of the Crown to the Receiver-General of this Province, and if default shall be made in such payment, the amount due by the Officer making such default shall be deemed a specialty debt to Her Majesty.

Deputy-clerks to render accounts, &c., in like manner.

How attested.

Money to be paid over.

XVII. And whereas the Office of Clerk of the Crown and Pleas of the said Court of Queen's Bench has for some time been filled by Charles Coxwell Small, Esquire, who has been remunerated for his services in such Office by fees and emoluments hereafter to be paid to the Receiver-General of this Province, and carried to the account of the Consolidated Revenue Fund thereof; And whereas it is thought right that the said Charles Coxwell Small should be continued in his said Office, and should receive compensation in addition to the salary hereby provided: Be it therefore enacted, That the said Charles Coxwell Small shall be entitled to be appointed, if he so desire it, to the Office of the Clerk of the Crown and Pleas of the said Court of Queen's Bench, and that in lieu of the salary of Four hundred pounds per annum by this Act provided for the said Officer, there shall and may be paid and payable out of the Consolidated Revenue Fund of this Province, to the said Charles Coxwell Small, (after paying or reserving sufficient to pay all former charges as hereinbefore provided) the yearly sum of Seven hundred and fifty pounds; which said sum shall be paid from time to time, quarterly, free and clear from all taxes and deductions whatsoever, on the four usual quarterly days hereinbefore mentioned, provided that the payment to be made on the first of the said quarterly days shall be a rateable proportion of a quarter's salary according to the time then elapsed since the accrual of the right of the said Charles Coxwell Small, under this Act; and in case of the death of the said Charles Coxwell Small, or of his resigning the said Office, the said Charles Coxwell Small, or his executors or administrators, shall be entitled to a proportionate part of his salary according to the time elapsed between his death or resignation and the last quarterly payment.

Case of C. C. Small recited.

C. C. Small to be appointed clerk of the crown and pleas in Q. B. if he desire it, with extra salary as compensation.

Times and mode of payment, &c.

Case of his death, &c. provided for.

XVIII. And be it enacted, That so soon as this Act shall come into force, the Act of the Parliament of this Province, passed in the eighth year of Her Majesty's reign, intituled, *An Act to make further regulations for holding the Courts of Assize and Nisi Prius, and Oyer and Terminer and General Gaol Delivery, in Upper-Canada, and to provide for the trial of prisoners under certain circumstances*, be, and the same shall be hereby repealed; but all Acts and provisions of law thereby repealed shall nevertheless remain repealed.

Act of Canada 8 V. c. 14, repealed from the time this Act shall be in force.

Terms of courts of Q. B. and C. P. appointed.

XIX. And be it enacted, That so soon as this Act shall come into force, the times and terms of sittings of the said Courts of Queen's Bench and Common Pleas in Upper-Canada, shall be as follows, that is to say: Hilary Term shall begin on the first Monday in February and end on the Saturday of the ensuing week: Easter Term shall begin on the first Monday in June and end on the Saturday of the ensuing week; Trinity Term shall begin on the last Monday in August and end on the Saturday of the ensuing week; and Michaelmas Term shall begin on the third Monday in November and end on the Saturday of the ensuing week.

Commissions of assize and nisi prius to be issued yearly at certain times.

XX. And be it enacted, That after the end of Easter Term next, as appointed by this Act, it shall and may be lawful for the Governor, Lieutenant-Governor, or person administering the Government of this Province, to issue yearly and every year, in the vacation between Hilary and Easter Terms, and also in the vacation between Trinity and Michaelmas Terms, such Commissions of Assize and Nisi Prius into the several Counties of Upper-Canada as may be necessary for the purpose of trying all issues joined in the Superior Courts of Common Law, which, according to the practice of the said Courts, ought to be tried in such Counties respectively; and that in like manner, Commissions of Oyer and Terminer and General Gaol Delivery shall be issued into the several Counties of Upper-Canada twice in the year within the periods aforesaid; Provided always, that nothing in this clause shall extend to the County of York, for which special provision is hereinafter made; And provided also, that it shall be in the power of the Governor, Lieutenant-Governor, or person administering the Government of this Province, to issue a Special Commission or Special Commissions into every County of this Province for the trial of one or more offenders upon extraordinary occasions, when he shall deem it necessary or expedient that such Commissions should issue.

And also commissions of Oyer and Terminer and general gaol delivery.

Proviso as to County of York.

Proviso as to special commissions.

As to commissions of Assize and Nisi Prius into the county of York.

XXI. And be it enacted, That it shall and may be lawful for the Governor, Lieutenant-Governor, or person administering the Government of this Province, to issue yearly and every year in the vacation between Michaelmas and Hilary Terms, and also in the vacation between Hilary and Easter Terms, and also in the vacation between Trinity and Michaelmas Terms, such Commissions of Assize and Nisi Prius into the County of York as may be necessary for the purpose of trying issues joined in the Superior Courts of Common Law, in any suit or action which, according to the practice of such Courts, ought to be tried in such County: And that in like manner, Commissions of Oyer and Terminer and General Gaol Delivery shall be issued into the said County of York three times in the year within the periods last aforesaid: And the said Courts of Assize and Nisi Prius, Oyer and Terminer and General Gaol Delivery, in and for the said County of York, shall open and be holden on the first Monday in January, the first Monday in May, and the first Monday in November, in each and every year.

Commissions of oyer and terminer and general gaol delivery into the said county.

Times of holding the said courts.

First process where the defendant is not to be held to special bail.

As Schedule No. 1.

XXII. And be it enacted, That the Process in all actions commenced in the said Courts of Queen's Bench and Common Pleas, in cases where it is not intended to hold the defendant to special bail, shall, whether the action be brought by or against any person entitled to the privilege of Parliament, or of the Court wherein such action shall be brought, or of any other Court, or to any other privilege, or by or against any other person, be according to the form contained in the Schedule to this Act annexed, marked No. 1, and which Process may issue from either of the said Courts, and shall be called

called a Writ of Summons; and in every such Writ or copy thereof, the City, Town, or Township and County of the residence or supposed residence of the party defendant, or wherein the defendant shall be or be supposed to be, shall be mentioned; and such Writ shall be issued by the Clerks of the Crown and Pleas of such Courts respectively and their Deputies; and every such Writ may be served in the manner heretofore used in the County therein mentioned, or within two hundred yards of the border thereof, and not elsewhere; and the person serving the same shall and is hereby required to endorse on the Writ the day of the month and week of the service thereof.

Particulars in such Writ.

By whom to be issued.

Service of such Writ.

XXIII. And be it enacted, That the mode of appearance to every such Writ, or under the authority of this Act, shall be by delivering a Memorandum in writing according to the form contained in the said Schedule, and marked No. 2; such Memorandum to be delivered to such officer or person as the Court out of which the Process issued shall direct, and to be dated on the day of the delivery thereof.

Form of appearance to as in No. 2 of Schedule.

XXIV. And be it enacted, That in all such actions wherein it shall be intended to arrest and hold any person to special bail, the Process shall be by a Writ of Capias, according to the form contained in the said Schedule and marked Number three, and so many copies of such Process, together with every Memorandum or Notice subscribed thereto, and all endorsements thereon, as there may be persons intended to be arrested thereon or served therewith, shall be delivered therewith to the Sheriff or other officer who may have the execution and return thereof, and who shall upon or forthwith after the execution of such Process, cause one such copy to be delivered to every person upon whom such Process shall be executed by him, whether by service or arrest, and shall endorse on such Writ the true day of the execution thereof, whether by service or arrest; and if any defendant be taken or charged in custody upon any such Process and imprisoned for want of sureties for his appearance thereto, the plaintiff in such Process may, before the end of the next term after the arrest of such defendant, declare against such defendant and proceed thereon in the manner and according to the directions contained in the third and fourth rules of the said Court of Queen's Bench made in Easter Term in the fifth year of Her Majesty's reign: Provided always, that it shall be lawful for the plaintiff or his attorney to order the Sheriff or other officer to whom such Writ shall be directed, to arrest one or more of the defendants therein named, and to serve a copy thereof on one or more of the others, which order shall be duly obeyed by such Sheriff or other officer, and such service shall be of the same force and effect as the service of the Writ of Summons hereinbefore mentioned, and no other.

Form of Writ where defendant is to be held, to special bail to be as in No. 3, of Schedule.

How the plaintiff may declare, if the defendant be in custody for want of sureties.

One or more of any number of defendants may be arrested and others merely served with process.

XXV. And be it enacted, That no Writ issued by authority of this Act, shall be in force for more than four calendar months, from the day of the date thereof, including the day of such date, but every Writ of Summons and *capias*, may be continued by *alias* and *pluries*, as the case may require, if any defendant therein named may not have been arrested thereon or served therewith: Provided always, that no first Writ shall be available to prevent the operation of any Statute, whereby the time for the commencement of any action may be limited, unless the defendant shall be arrested thereon, or served therewith; or unless such Writ and every Writ, if any, issued in continuation of a preceding Writ, shall be returned *non est inventus*, and entered of record within one calendar month next after the expiration thereof, including the day of such expiration, and unless every Writ issued in continuation of a preceding Writ shall be issued within one calendar month after the expiration of the preceding Writ, and shall contain a

No Writ to be in force more than four months.

But may be continued.

Proviso as to the interpretation of the statute of limitations by the issue of process.

Memorandum

As to returns to process.

Memorandum endorsed thereon, or subscribed thereto, specifying the day of the date of the first Writ; and return to be made in bailable Process by the Sheriff or other officer to whom the Writ shall be directed, or his successor in office, and in Process not bailable by the plaintiff or his attorney suing out the same, as the case may be.

When further proceedings may be had after service of first process.

XXVI. And be it enacted, That if any Writ of Summons or *capias* issued by authority of this Act shall be served or executed on any day whether in term or in vacation, all necessary proceedings to judgment and execution may, except as hereinafter provided, be had thereon without delay at the expiration of eight days, from the service or execution thereof, on whatever day the last of such eight days may happen to fall, whether in term or in vacation: Provided always, that if the last of such eight days shall in any case happen to fall on a Sunday, Christmas-day or Good-Friday, in either of such cases the following day, or the following Monday when Christmas-day falls on a Saturday, shall be considered as the last of such eight days: Provided also, that if such Writ shall be served or executed on any day between the first day of July and the twenty-first day of August in any year, special Bail may be put in by the defendant in bailable Process, or appearance, entered either by the defendant or the plaintiff on Process not bailable, at the expiration of such eight days: Provided also, that no declaration or pleading, after declaration, shall be filed or delivered between the said first day of July and the said twenty-first day of August.

Proviso as to holy-days.

Proviso as to Writs served between 1st July and 21st August.

Proviso: no pleading to be filed between the said days.

How Writs shall be tested.

XXVII. And be it enacted, That every Writ issued by the authority of this Act shall bear date on the day on which the same shall be issued and shall be tested in the name of the Chief Justice, or in case of a vacancy of such office, then in the name of the Senior Puisné Judge of the Court issuing the same, and shall be endorsed with the name and place of business of the Attorney actually suing out the same; but in case no Attorney shall be employed for that purpose, then with a Memorandum expressing that the same has been sued out by the plaintiff in person, mentioning the City, Town or Township in which such plaintiff resides.

And endorsed. If no attorney be employed.

How service may be made on a corporation.

XXVIII. And be it enacted, That every such Writ of Summons issued against a corporation aggregate, may be served on the Mayor, President, or other Head Officer, or on the Town Clerk, Clerk, Cashier, Manager, Treasurer or Secretary of such corporation, or branch or agency thereof.

Judges to make rules for carrying this Act into effect.

XXIX. And be it enacted, That it shall and may be lawful to and for the Judges of the said Courts and they are required from time to time to make all such general rules and orders for the effectual execution of this Act, and of the intention and object hereof, and for fixing the costs to be allowed for and in respect of the matters herein contained, and the performance thereof, as in their judgment shall be deemed necessary or proper, and for that purpose to meet as soon as conveniently may be after the passing hereof.

Proceedings in default of appearance or bail.

XXX. And be it enacted, That all such proceedings as are mentioned in any Writ, Notice or Warning issued under this Act shall and may be had and taken in default of a defendant's appearance, or putting in special Bail, as the case may be.

The attorney on any Writ shall declare certain parti-

XXXI. And be it enacted, That every Attorney whose name shall be endorsed on any Writ issued by authority of this Act, shall, on demand in writing made by or on behalf of any defendant, declare forthwith whether such Writ has been issued by him

or with his authority or privity, and if he shall answer in the affirmative, then he shall, also in case the Court or any Judge of the same, or of any other Superior Court, shall so order and direct, declare in writing within a time to be allowed by such Court or Judge, the profession, occupation or quality and place of abode of the plaintiff, on pain of being guilty of a contempt of the Court from which such Writ shall appear to have been issued; and if such Attorney shall declare that the Writ was not issued by him or with his authority or privity, the said Court or Judges shall and may, if it shall appear reasonable so to do, make an order for the immediate discharge of any defendant or defendants who may have been arrested on any such Writ, on entering a common appearance.

Particulars when required by the defendant.

Defendant may in certain cases be discharged on entering an appearance.

XXXII. And be it enacted, That it shall and may be lawful to and for the Judges of each of the Courts from time to time to make such rules and orders for the government and conduct of the Ministers and Officers of their respective Courts, in and relating to the distribution and performance of the duties and business to be done and performed in the execution of this Act, as such Judges may think fit and reasonable: Provided always, that no additional charge be thereby imposed on the suitors.

Judges may make rules for the conduct of the officers and ministers of their courts. Proviso.

XXXIII. Provided always, and be it enacted, That nothing in this Act contained shall subject any person to arrest, who by reason of any privilege, usage or otherwise, may now by law be exempt therefrom.

Privilege from arrest not to be impaired by this Act.

XXXIV. And be it enacted, That from the time when this Act shall commence and take effect, the Writs hereinbefore authorized shall be the only Writs for the commencement of personal actions in the Courts aforesaid, and the costs to be allowed and charged for such Writs shall be the same as for Writs of *Capias ad Respondendum*; and that all the provisions of an Act of the Parliament of this Province, passed in the eighth year of Her Majesty's Reign, intituled, *An Act to alter the issuing of Testatum Writs of Capias ad Respondendum in the several Districts of Upper-Canada, and for other purposes therein mentioned*, shall continue in force and be applicable to the Writs directed by this Act, except in so far as the provisions of the said Act are inconsistent herewith, and shall apply to the practice to be observed in the Court of Common Pleas as well as the Court of Queen's Bench.

The said Writs to be the only Writs for commencing personal actions in the said courts.

Provisions of Act 8 V. c. 36, extended to such Writs.

XXXV. And whereas it is expedient to authorize and require the Judges of the several County Courts in Upper-Canada, to make orders in relation to certain matters of practice in cases depending in the Superior Courts of Common Law, which may be conveniently disposed of in the several Counties: Be it enacted, That it shall and may be lawful for any plaintiff or defendant in any suit depending in the Superior Courts of Common Law in Upper-Canada, to make application for time to plead, reply or rejoin, for particulars of demand and set off, and for summonses and orders to compute, to the Judge of the County Court for the County in which the suit is brought, or the venue laid; and the Judge of such County Court is hereby authorized and required to hear and determine such applications and to grant such summonses, to impose such terms, and make such orders as are granted, imposed and made in the like cases by a Judge of the Superior Courts of Common Law sitting in Chambers; Provided always, that the provisions of this clause shall not apply to any suit wherein the venue is laid in the County of York, or in any suit wherein the Attorney for the defendant, or in case of two or more defendants where the Attorney for any one or more of them,

Recital.

Judges of the county courts to make orders as to certain matters in cases depending in superior courts.

Proviso as to suits in the county of York; or where the parties reside in

resides

different coun-
ties, &c.

Proviso: ap-
peal allowed.
Proviso as to
application to
Judge of the
Superior
Court.

Deputy-Clerks
of the Crown
may issue
rules to com-
pute tax costs,
enter Judg-
ments, and
issue execu-
tion, &c., in
certain cases.

And may is-
sue *alias* and
pluries Writs
of execution.

Recital.

Act of U. C.
34 G. 3, c. 2.

Act of U. C.
7 W. 4. c. 2.

Sec. 33, 34, 35
& 36 of 34 G.
3. c. 2, and
Sec. 16 & 17
of 7 W. 4. c. 2,
repealed.

Court of Error
and Appeal
constituted.

Of what
Judges the
said Court
shall consist.
Place of sit-
ting.
Who shall
preside.

resides in a County different from that in which the Attorney for the plaintiff, or if he prosecutes in person the Plaintiff, resides: Provided also, that either party interested may appeal from any such order to the Court in which the action is pending, or to one of the Judges of the Superior Courts at Chambers, and such Court or Judge may affirm, reverse or modify such order, or make such other order upon the subject matter of appeal, and the proceedings had thereon, and with or without costs, as to such Court or Judge may seem meet; Provided also, that nothing herein contained shall prevent any party from making any such application in the first instance, according to the practice of the Superior Courts of Common Law, instead of to the Judge of the County Court.

XXXVI. And be it enacted, 'That it shall and may be lawful for the Deputy-Clerks of the Crown of the Queen's Bench and the Common Pleas in each County, to issue such rules to compute, and thereupon to tax costs and enter final judgment, and issue Writs of *Fieri Facias* or *Capias ad Satisfaciendum* according to the practice of the Superior Courts, in all suits where an order for rule to compute has been lawfully issued by the Judge of the County Court under the authority of the preceding section; and also, that it shall and may be lawful for such Deputy-Clerks to tax costs and enter judgments in cases where *Cognovits* have been given in the first instance, and thereupon to issue Writs of *Fieri Facias* and *Capias ad Respondendum* thereon according to the practice aforesaid; and also, generally, to issue *alias* and *pluries* Writs of *Fieri Facias* and *Capias ad Respondendum*, and also original *alias* and *pluries* Writs of Execution against Lands and Tenements.

XXXVII. And whereas by an Act passed in the thirty-fourth year of the Reign of His late Majesty King George the Third, intituled, *An Act to establish a Superior Court of Civil and Criminal Jurisdiction, and to regulate the Court of Appeal*, a tribunal was established for determining all appeals from such judgments or sentences of His Majesty's Court of King's Bench thereby established, as might be lawfully brought before it; and whereas by an Act passed in the seventh year of the Reign of His late Majesty King William the Fourth, intituled, *An Act to establish a Court of Chancery in this Province*, Appeals are permitted to the said Court of Appeals from the judgments and decrees of the said Court of Chancery; and whereas the appellate tribunal thus established has been found unsatisfactory: Be it enacted, That the thirty-third, thirty-fourth, thirty-fifth and thirty-sixth clauses of the said Act in this clause first above recited, and the sixteenth and seventeenth clauses of the Act in this clause secondly above recited, be, and the same are hereby, from the time this Act takes effect, repealed.

XXXVIII. And be it enacted, That there be constituted and established, and there is hereby constituted and established, a Court of Judicature in that part of this Province formerly called Upper-Canada, which shall be called the "Court of Error and Appeal."

XXXIX. And be it enacted, That the said Court of Error and Appeal shall be composed of the Judges of the said Court of Queen's Bench, the Judges of the said Court of Common Pleas, and the Judges of the said Court of Chancery, who shall sit together at a place certain, that is to say: at the City of Toronto; and the Chief Justice of the said Court of Queen's Bench, for the time being, shall preside in the said Court of Error and Appeal, and in his absence the Judge of the said Court of Error and Appeal, entitled to precedence next after the Chief Justice of the said Court of Queen's Bench, who shall be present.

XL. And be it enacted, That the said Court of Error and Appeal shall have, hold and exercise an appellate civil and criminal jurisdiction within and throughout Upper-Canada, with full power and authority to hear and determine in due course of law, all matters which may lawfully be brought before it; and that an appeal shall lie to the said Court of Error and Appeal from all judgments of the said Courts of Queen's Bench and Common Pleas, and that an appeal shall lie to the said Court of Error and Appeal from all judgments, orders and decrees of the said Court of Chancery; Provided nevertheless, that no such appeal shall be allowed until the party appellant shall have given proper security to the extent of One hundred pounds, to the satisfaction of the Court from whose order, decree or judgment he is about to appeal, that he will effectually prosecute his appeal, and pay such costs and damages as shall be awarded in case the judgment or decree appealed from shall be affirmed; and that upon the perfecting such security, execution shall be stayed in the original cause, except in the cases hereinafter provided, that is to say :

Jurisdiction of the said court.

From what Courts appeal shall lie.

Proviso : Security in appeal from costs and damages.

Execution to be stayed by appeal.

Firstly. That where the appeal is from a judgment, order or decree, directing the payment of money, the perfecting the security hereinbefore provided shall not stay the execution of the judgment unless the party appellant shall have further given proper security to the satisfaction of the Court from whose judgment he is about to appeal, that if the judgment appealed from, or any part thereof be affirmed, the appellant will pay the amount directed to be paid by the judgment or the part of such amount as to which the judgment shall be affirmed if it be affirmed only in part, and all damages which shall be awarded against the appellant on the appeal.

Exceptions.

Further security in certain cases :

For paying the amount of judgment if affirmed, &c.

Secondly. Provided always, That if the judgment or decree appealed from, direct the assignment or delivery of documents or personal property, the execution of the judgment or decree shall not be stayed by the perfecting of the security hereinbefore firstly required, unless the things directed to be assigned or delivered be brought into Court or placed in the custody of such Officer or Receiver, as the Court shall appoint, or unless security be given to the satisfaction of the Court appealed from, and in such sum as that Court shall direct, that the Appellant will obey the order of the Appellate Court on the appeal.

For delivering documents or personal property, if the judgment be affirmed.

Thirdly. Provided always, That if the judgment or decree appealed from direct the execution of a conveyance or other instrument, the execution of the judgment or decree shall not be stayed by the appeal until the instrument shall have been executed and deposited with the proper Officer of the Court appealed from, to abide the judgment of the Appellate Court.

Deposit of an instrument ordered to be executed.

Fourthly. Provided always, That when the judgment or decree appealed from, directs the sale or delivery of possession of real property or chattels real, the execution of the same shall not be stayed unless proper security be entered into to the satisfaction of the Court appealed from, that during the possession of such property by the Appellant, he will not commit or suffer to be committed any waste thereon, and that if the judgment be affirmed, he will pay the value of the use and occupation of the property from the time of the appeal until the delivery of possession thereof, the amount of which said security shall be fixed by the said Court.

Security that waste shall not be committed on the property in dispute, &c.

Fifthly.

Security for
a deficiency or
sale ordered by
a judgment.

Fifthly. Provided also, That when the judgment or decree is for the sale of property and the payment of a deficiency arising upon the sale, the security shall also provide for the payment of such deficiency.

Recital.

Judges to
make general
rules and
orders.

And regulate
costs.

Proviso: to
what such
rules may or
may not ex-
tend.

Rules to be
laid before the
Provincial
Parliament.

When to have
effect.

Present cases
in appeal
transferred to
the said court.

Registrar of
the Court of
Chancery to
be clerk of the
court of appeal.

Not to take
fees for his
own use, &c.,

Fees, &c., to
belong to the
Province.

XLI. And whereas the practice heretofore adopted in appeal is in many respects unsettled and inconvenient, and the costs in some matters of appeal excessive, and it is expedient that powers should be given to the Judges of the said Court of Appeal to make rules and regulations in respect of the same: Be it therefore enacted, That it shall be lawful for the said Judges of the Court of Appeal, at any time within two years from the time when this Act shall take effect, to make all such General Rules and Orders as to them may seem expedient for the purpose of adapting the said Court of Appeal to the circumstances of this Province, as well in regard to the Writs of Error or other Process by which Appeals should be commenced, the form and mode of suing out such Process, as in respect to the practice and proceedings of the said Court; and also to regulate the allowance and amount of costs, and from time to time to make other rules and orders, amending, altering or rescinding the same: Provided always, that no such rules or orders shall have the effect of altering the principles or rules of decision of the said Court, or any of them, or of abridging or affecting the right of any party to such remedy as before the passing of this Act might have been obtained in the Court of Appeal hereby abolished, but may in all respects extend the manner of obtaining such remedy by regulating the practice of the said Court in whatever way may to them seem expedient for better attaining the ends of justice; and all such Rules, Orders or Regulations shall be laid before both Houses of the Provincial Parliament, if then in Session, immediately upon the making of the same, or if the Parliament be not then in Session, then within five days after the meeting thereof; and no such Rule, Order or regulation shall have effect until six weeks after the same shall have been so laid before both Houses of the Legislature; and any rule or order so made, shall, from and after such time aforesaid, be binding and obligatory on the said Court, and all other Courts in the said Province of Upper-Canada to which the same shall be made expressly to extend.

XLII. And be it enacted, That all appeals which at the time of the passing of this Act, shall be depending in the said Court of Appeal hereby abolished, shall be by force of this Act, transferred with all the proceedings thereon to the said Court of Error and Appeal hereby established there to be carried on and prosecuted and dealt with, and decided according to the practice of the said Court of Appeal, in the same manner in every respect as if such suits and matters had been originally commenced in the said Court of Error and Appeal hereby established.

XLIII. And be it enacted, That the Registrar of the Court of Chancery in Upper-Canada, shall *ex officio* be Clerk of the said Court of Error and Appeal, and that the like sums and fees payable and receivable in the said Court of Appeal hereby abolished shall be payable and receivable by the like persons in the Court of Error and Appeal hereby established in respect of any matters in the said Court, but the said Clerk of the Court of Appeal shall not be entitled to take for his own use or benefit, directly or indirectly, any fee or emolument whatsoever save the salary to which he shall be entitled as Registrar of the said Court of Chancery, and that all fees, dues, emoluments, perquisites and profits received by or on account of the said Registrar, as Clerk of the Court of Appeal, shall form part of the Consolidated Revenue Fund of this Province,

Province, and shall be accounted for to Her Majesty, Her Heirs and Successors, through the Lords Commissioners of Her Treasury, for the time being, in such manner and form as Her Majesty, Her Heirs and Successors shall appoint.

XLIV. And be it enacted, That the said Clerk of the Court of Error and Appeal shall, on the four quarterly days hereinbefore mentioned, make up and render to the Inspector-General of Public Accounts in this Province, a true Account in writing, of all the fees, dues, emoluments, perquisites and profits received by or on account of the said office of Clerk of the Court of Error and Appeal, in such form, and with such particulars as the said Inspector-General shall from time to time require; which said Accounts shall be signed by the said Clerk of the Court of Error and Appeal, and shall be declared before one of the Judges of the said Court; and the said Clerk of the Court of Error and Appeal shall, within ten days after the rendering of such Account, pay over the amount of all such dues, fees, emoluments, perquisites and profits, to the Receiver-General of this Province, and if default shall be made in such payment, the amount due by the said Clerk of the Court of Error and Appeal shall be deemed a specialty debt to Her Majesty.

The clerk to account quarterly to the Inspector General.

Accounts how attested.

He shall pay over all public moneys in his hands.

XLV. And be it enacted, That every Attorney and Solicitor admitted to practice in the said Court of Queen's Bench, or in the said Court of Common Pleas, or in the Court of Chancery in Upper-Canada, shall be permitted and have full power to practice in the said other Court or Courts, upon such Attorney or Solicitor being sworn in and enrolled as an Attorney or Solicitor of such other Court or Courts: and the said Courts are hereby authorized upon the production of his certificate of admission to swear in and enrol any such Attorney or Solicitor as aforesaid, and upon the payment of Five shillings: Provided always, that every Attorney and Solicitor already admitted to practice in the said Court of Queen's Bench or in the Court of Chancery in Upper-Canada at the time this Act shall come into force, shall be entitled to have his name inserted on the roll of Attornies of the said Court of Common Pleas gratis, upon filing a written request for the same in the office of the Clerk of such Court, and all such Solicitors in Chancery, shall in like manner be entitled to have their names inserted on the roll of Attornies of the said Court of Queen's Bench on filing a like request.

Who may practice in the Court of Appeal.

Proviso as to attornies, &c., now admitted.

XLVI. And be it enacted, That the judgment of the said Court of Error and Appeal shall be final in all cases where the matter in controversy shall not exceed the sum or value of One thousand pounds, but in cases exceeding that amount, as well as in all cases where the matter in question shall relate to the taking of any annual or other rent, customary or other duty, or fee, or any other such like demand of a general and public nature affecting future rights, of what value or amount soever the same may be, an Appeal may lie to Her Majesty, in Her Privy Council: Provided always, that no such Appeal shall be allowed until the party appelland shall have given proper security to the extent of Five hundred pounds, to the satisfaction of the Court from whose order he is about to appeal, that he will effectually prosecute the appeal and pay such costs and damages as shall be awarded in case the judgment or decree appealed from shall be affirmed, and that upon the perfecting such security, execution shall be stayed in the original cause: Provided always, that the provisions of the first, second, third, fourth and fifth Provisos in the Fortieth Clause of this Act contained, shall be in force and apply to the Appeal hereby granted, and the completion of the security hereby required shall not have the effect of staying execution in the original cause, in the

Judgment to be final in certain cases; in others, an appeal to lie to H. M. in council.

Proviso: security to be given on such appeal.

Proviso: certain provisions of section 40 of this Act to apply to such appeal.

the different cases excepted out of the said Fortieth Clause, unless the provisions in the said Provisos contained shall have been complied with.

As to appeals from district or county courts.

XLVII. And be it enacted, That in all cases where appeals now lie or shall be hereafter appointed to lie from any District or County Courts to the Court of Queen's Bench, such appeals shall and may at the option of the appellants be appealed to and prosecuted in like manner in the said Court of Common Pleas.

Court of C. P. may appoint commissioners for taking affidavits, &c ; their powers.

XLVIII. And be it enacted, That the Court of Common Pleas shall have power to appoint Commissioners for taking affidavits and recognizances of Bail in the said Court of Common Pleas in the like manner as is now done by the Court of Queen's Bench, and with the like powers, and all such Commissioners appointed or to be appointed by either Court shall have full power to act in matters depending in the other to all intents as if such Commissioner had been appointed thereby, and in all matters depending in the District Courts and in all other matters whatsoever. And that any affidavit sworn before or recognizance of Bail taken by any such Commissioner appointed under the authority of this Act shall be as valid and effectual as if taken before a Commissioner for taking affidavits in the Court of Queen's Bench in any District in Upper-Canada.

Act may be amended this session.

XLIX. And be it enacted, That this Act may be amended, altered or repealed, during the present Session.

Commencement of this Act.

L. And be it enacted, That this Act shall come into force on the first day of January next, or at such earlier day as shall be appointed for that purpose by Proclamation under the Great Seal of this Province.

SCHEDULE

(To which this Act Refers.)

No. 1.—WRIT OF SUMMONS.

Victoria by the Grace of God, &c.

Greeting:

To C. D. of in the County of

We Command you (or as before or often, we have commanded you) that, within eight days after the service of this Writ on you, inclusive of the day of such service, you do cause an appearance to be entered for you in our Court of Queen's Bench (or Common Pleas) at Toronto, by filing your appearance in the office of the Clerk of the Crown (or "Deputy," as the case may be) in the County of in an action on promises at the suit of A. B. And take notice that in default of your so doing, the said A. B. may cause an appearance to be entered for you, and proceed thereon to judgment and execution.

Issued by L. M. (officer's name.)

Witness at the day of A. D. 184 . Memorandum

Memorandum to be subscribed on the Writ.

N. B.—This Writ is to be served within four calendar months from the date thereof, including the day of such date, and not afterwards.

Endorsement to be made on Writ before the service thereof.

This Writ was issued by E. F. of _____ Attorney for the said
Plaintiff,

or

This Writ was issued in person by A. B. who resides at (*mention the City, Town or Township, also name of Street or No. of Lot and Concession.*)

Endorsement to be made on the Writ after service thereof.

This Writ was served by me X. Y. on C. D., on _____ the
day of _____ A. D. 184 .
X. Y.

No. 2.

FORMS OF ENTERING APPEARANCE.

A. Plaintiff, vs. C. } The Defendant C. D. appears in person.
D.

A. Plaintiff, vs. C. } E. F. Attorney for C. D., appears for him.
D. and another. }

A. Plaintiff, vs. C. } G. H. Attorney for the Plaintiff, appears for the Defendant C. D.
D. and others. } according to the Statute.

Entered the _____ day of _____, A. D., 184 .

No. 3.

WRIT OF CAPIAS.

Victoria, &c.,

To the Sheriff of _____

We command you (*or as before or often, we have commanded you*) that you take C. D. if he shall be found in your County, and him safely keep until he shall have given you bail, according to Law, in an action on promises (*or of debt, &c.*) at the suit of A. B. or until the said C. D. shall by other lawful means be discharged from your custody. And we do further command you, that on execution hereof, you do deliver a
copy

CAP. LXIV.

An Act for the more effectual Administration of Justice in the Court of Chancery of the late Province of Upper-Canada.

[30th May, 1849.]

WHEREAS by an Act of the Legislature of the late Province of Upper-Canada, passed in the seventh year of the Reign of His late Majesty King William the Fourth, intituled, *An Act to establish a Court of Chancery in this Province*, it was amongst other things enacted, That the judicial powers of the said Court should be exercised by a single Judge, to be called "The Vice-Chancellor of Upper-Canada;" And whereas it is expedient to alter the constitution of the said Court: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That notwithstanding any thing contained in the said Act of the Legislature of the late Province of Upper-Canada, hereinbefore recited, the said Court of Chancery shall be presided over by a Chief Judge, to be called the Chancellor of Upper-Canada, and with two additional Judges, to be called Vice-Chancellors.

Preamble.

Act of U. C. 7
Will. 4. c. 2.How the
Court of Chan-
cery shall be
constituted
hereafter.

II. And be it enacted, That it shall be lawful for Her Majesty to appoint by Letters Patent under the Great Seal of this Province, one person being a barrister at law of not less than ten years' standing to be Chancellor of the said Court, and two persons being barristers of not less than ten years' standing at the bar to be Vice-Chancellors of the same, and from time to time, to supply any vacancies in the number of the said Judges; and the Chancellor of Upper-Canada shall have rank and precedence next to the Chief Justice of the Court of Queen's Bench.

A Chancellor
and two vice-
chancellors to
be appointed.Rank of the
chancellor.

III. And be it enacted, That the Judges to be appointed under this Act, shall hold their offices during good behaviour: Provided always, that it may be lawful for the Governor, Lieutenant-Governor, or person administering the Government of this Province, to remove any Judge or Judges of the said Court, upon the address of the two Houses of the Provincial Parliament; and in case any Judge so removed, shall think himself aggrieved thereby, it shall and may be lawful for him within six months to appeal to Her Majesty in Her Privy Council, and such a motion shall not be final until determined by Her Majesty in Her Privy Council.

Tenure of
office.Proviso: how
the judges of
the court may
be removed.

Appeal given.

IV. And be it enacted, That from and after the commencement of this Act, there shall and may be paid and payable out of the Consolidated Revenue Fund of this Province, (after paying or reserving sufficient to pay all such sums as have been directed by any former Act of the Parliament of this Province, to be paid out of the same, but with preference to all other payments which shall hereafter be charged upon the same) the yearly sums following, as and for the salaries of the said Judges, videlicet: to the Chancellor of the said Court, the sum of one thousand two hundred and fifty pounds; to each of the other Judges, the sum of one thousand pounds; which said sums shall be paid from time to time, quarterly, free and clear from all taxes and deductions whatsoever,

Salaries of the
judges, and
how and when
to be paid.

Provision for the case of the death, resignation, &c., of any judge.

whatsoever, on the first day of January, the first day of April, the first day of July, and the first day of October, by equal portions; the first payment to be made on the first of such days respectively as shall occur after the appointment of the Judge entitled to receive the same; and that if any person hereafter appointed to any of such offices, shall die or resign the same, the executor or administrator of the person so dying, or the person so resigning, shall be entitled to receive such proportionable part of the salary aforesaid as shall have accrued during the time that such person shall have executed such office since the last payment, and that the successor of such person so dying or resigning shall be entitled to receive such portion of the salary as shall be accruing or shall accrue from the day of his appointment.

Her Majesty may grant an annuity to judges resigning.

Annuity how payable, &c.

V. And be it enacted, That it shall and may be lawful for Her Majesty, by any Letters Patent, under the Great Seal of this Province, to give and grant unto any of the Judges appointed in pursuance of this Act, an annuity equal to two-thirds of the salary assigned to such Judge under the provisions of this Act, to commence and take effect immediately after the period when the person to whom such annuity shall be granted shall resign his said office of Judge of the said Court, and to continue from thenceforth during the natural life of the person to whom the same shall be granted; and such annuity shall be issued and payable out of and charged and chargeable upon the Consolidated Revenue Fund of the Province, next in order of payment to, and after paying or reserving sufficient to pay all such sums of money as by any Act or Acts of the Parliament of this Province now in force, have been directed to be paid thereout, but with preference to all other payments which shall hereafter be charged upon or payable out of the same fund, and such annuity shall be paid quarterly, free from all taxes and deductions whatsoever on the four usual days of payment aforesaid in each year; and the first quarterly payment, or a proportionate part thereof, to be computed from the time of his resignation of such office, shall be made on such of the said days as shall next happen after the resignation of the said office; and that the executors or administrators of the person to whom the same annuity shall be granted as aforesaid, shall be paid such proportionate part of the said annuity as shall accrue from the commencement, or the last quarterly payment thereof, as the case may be, to the day of his death; Provided always, that no annuity granted to any Judge appointed under this Act shall be valid, unless such person shall have continued in the said office, or in the said office and the office of a Judge in one or more of Her Majesty's Superior Courts of Common Law in Upper-Canada, for the period of fifteen years, or shall be afflicted with some permanent infirmity disabling him from the due execution of his office which shall be recited in the said grant.

Provision for case of death, &c.

Provide: in what cases only such annuity shall be granted.

Judges of the said court to take an oath of office.

VI. And be it enacted, That every Judge to be appointed in pursuance of this Act, shall previous to his executing the duties of his office, take the following oath, which said oath shall be administered to the Chancellor of the said Court, before the Governor, Lieutenant-Governor, or person administering the Government of this Province, in Council, and to the Vice-Chancellors of the said Court, in open Court, in presence of the Chancellor thereof:

The oath.

“ I, do solemnly and sincerely promise and swear, that I will duly and faithfully, and to the best of my skill and knowledge, execute the powers and trusts reposed in me, (as Chancellor or Vice-Chancellor). So help me God.”

VII.

VII. And be it enacted, That from and after the appointment of the Judges hereby authorized, they shall sit together in the Court of Chancery, over which Court the Chancellor shall preside, or if he be absent, then the Senior Vice-Chancellor.

Sittings of the Judges:
Who shall preside.

VIII. And be it enacted, That from and after the appointment of such Judges, all the jurisdiction, powers, authorities and privileges of the said Court of Chancery of Upper-Canada, shall by virtue of this Act, remain vested in the said Court, and shall be exercised by the Judges hereby appointed to preside therein, or by any one, or more of them who shall have power to hear and determine all matters which may be then depending, or shall thereafter be depending in the said Court of Chancery, which said proceedings shall be carried on and prosecuted and dealt with, and decided according to the practice of the said Court of Chancery in the same manner as the said causes and matters would have been decided if this Act had not been passed; and no decree, order, rule or act of the said Court of Chancery legally pronounced, given, had or done before this Act shall come fully into effect, shall be hereby avoided, but shall remain in full force and virtue as if this Act had not been passed, nor shall any cause, matter or thing depending in the said Court of Chancery, be abated, discontinued or annulled, but every such cause, matter or thing shall, in their then present condition, subsist and depend before the Judges whose appointment is hereby authorized to all intents and purposes as if they had been commenced and been in their then present condition after such appointment; and the Judges so appointed shall have full power and authority to proceed with all such causes and matters, and to make such decrees and orders in the same as the said Court of Chancery might but for this Act have made.

Powers of the court to continue as heretofore.

Continuance of causes before the court.

IX. And be it enacted, That all laws, orders and authorities touching the practice and manner of proceeding in the said Court of Chancery, shall continue in force and be applicable as if this Act had not been passed; and all persons now holding office or acting in the said Court of Chancery, shall continue to hold the same and perform the duties thereof under the jurisdiction hereby created, in the same manner and subject to the same regulations as they now hold the same and act therein; and all sums and fees shall continue to be payable and receivable by the like persons, and shall continue to be paid and applied to the like purposes as the same have heretofore been paid and received in respect of any matter in the said Court of Chancery; except in so far as the said matters and things in this clause contained have been altered and affected, or may be altered and affected by this present Act, or by any Act to be passed during the present Session of Parliament.

What laws shall apply to the said court.

Who shall be its officers.

As to moneys payable or receivable.

Exception.

X. And be it enacted, That the said Court of Chancery shall have jurisdiction to try the validity of Last Wills and Testaments, whether the same respect real or personal estate, and to pronounce such Wills and Testaments to be void for fraud and undue influence or otherwise, in the same manner and to the same extent as the said Court has now jurisdiction to try the validity of deeds and other instruments.

Court may try the validity of wills.

XI. And whereas a Commission was issued under the Great Seal of this Province, bearing date on the Twentieth day of July, in the seventh year of Her present Majesty's Reign, whereby the Chief Justice of the Court of Queen's Bench of Upper-Canada for the time being, the Senior Puisné Judge of the Court of Queen's Bench for the time being, and Henry John Boulton, Robert Easton Burns, William Hume Blake, and

Recital:

James

James C. Palmer Esten, Esquires, were appointed Commissioners, with authority to make a diligent enquiry whether any and what alterations could be made in the practice established in the Court of Chancery for the Province of Upper-Canada, or in the offices of that Court in the different stages of the proceedings therein, from the commencement to the termination thereof, by which the expense attending such proceedings and the time during which they depend in Court might be lessened and abridged usefully and beneficially to the Suitors of the said Court, and the ends of justice be promoted: And whereas the said Commissioners by their reports respectively made on the Twentieth day of April, in the eighth year of the Reign of Her present Majesty, and on the Twenty-fifth day of January then next ensuing, recommended certain alterations to be made in the pleadings and practice of the said Court: And whereas it is desirable that the suggestions of the said Commissioners, in regard to shortening the bill and answer, and enabling the Plaintiff to obtain discovery through the medium of a *viva voce* examination of the Defendant, and for extending a like privilege to the Defendant in relation to the *viva voce* examination of the Plaintiff, should be adopted; And whereas it is believed that the adoption of the above suggestion, the abolition of all unnecessary proceedings, and enabling matters to advance uninterruptedly in the Master's Office, will greatly tend to diminish the costs of proceedings in the said Court, and to promote the ends of Justice, but it is nevertheless expedient for the purpose of more conveniently and safely carrying out these and other alterations, that power should be vested in the Judges to be appointed under this Act, to make such rules and orders respecting the pleadings and practice of the said Court, for the purpose of carrying out the aforesaid suggestion, as well as such others as to them may seem expedient for the purposes mentioned in the hereinbefore recited Commission, and for amending or modifying any of the rules or orders, which have been or may be made for that purpose, and for regulating the Offices of the Master and Registrar of the said Court of Chancery, as well as for rescinding the said rules and orders, or any of them; Be it therefore enacted, That it shall be lawful for the Judges to be appointed under this Act for the time being, to make such rules and orders as to them may seem expedient, for regulating the Offices of the Master and Registrar of the said Court of Chancery, and for carrying into effect the recommendations of the said Commissioners as aforesaid, and from time to time to make other rules and orders, amending, altering or rescinding the same or any of them, and also to make all such rules and orders as to them may seem meet, for the purpose of adapting the proceedings of the said Court of Chancery to the circumstances of this Province, as well in regard to the Process and Pleadings, as in the practice and proceedings of the said Court, and more especially the taking, publishing, using and hearing of testimony in any suit therein pending, or the examination of all, or any of the parties to any such suit upon their oaths, *viva voce* or otherwise, including also the power to regulate by rules or orders, the allowance and amount of costs: Provided always, that no such rule or order shall have the effect of altering the principles or rules of decision of the said Court, or any of them, or of abridging or affecting the right of any party to such remedy as, before the passing of this Act, might have been obtained in the said Court, but may in all respects extend to the manner of obtaining such remedy, by regulating the nature and form of process and pleadings, and the practice of the said Court, as regards the method of taking, receiving, publishing, using and hearing of testimony, the examination of witnesses or parties, or any other matter or thing which may seem expedient for better attaining the ends of Justice, and advancing the remedies of Suitors in the said Court.

Judges to make rules and orders for certain purposes relative to proceedings in the court.

Costs. Proviso as to what may or may not be done by such rules.

XII. And whereas in consequence of the changes effected by this Act, and by an Act passed during the present Session of Parliament, intituled, *An Act to make further provision for the Administration of Justice, by the establishment of an additional Superior Court of Common Law, and also a Court of Error and Appeal in Upper-Canada, and for other purposes*, it is inexpedient that the Offices of Master and Registrar of the Court of Chancery should be held by the same person; And whereas it is desirable that the said Master and Registrar of the said Court of Chancery should be paid by a fixed salary instead of by fees: Be it enacted, That it shall be lawful for Her Majesty, Her Heirs and Successors, by Letters Patent under the Great Seal of this Province, to appoint a fit and proper person to be Registrar of the said Court of Chancery, to hold office during Her Majesty's pleasure, and from time to time to supply any vacancy in the said office; which said Registrar shall, *ex officio*, be Clerk of the Court of Error and Appeal of Upper-Canada; and that it shall be lawful for the said Registrar to appoint, subject to the approval of the Judges of the said Court, one Clerk; and the said Registrar, on the like approval, may remove at pleasure such Clerk; and that from and after the passing of this Act, there shall and may be paid and payable out of the Consolidated Revenue Fund of this Province, (after paying or reserving sufficient to pay all such sums as have been directed by any former Act of the Parliament of this Province to be paid out of the same, but with preference to all other payments which shall hereafter be charged upon the same) the yearly sums following as and for the salaries of the said Master, Registrar and Clerk, that is to say: to the said Master, the sum of Five hundred pounds; to the said Registrar, the sum of Four hundred pounds; and to the said Clerk, the sum of One hundred and twenty-five pounds; which said sums shall be paid from time to time quarterly, free and clear from all taxes and deductions whatsoever, on the four usual quarterly days hereinbefore mentioned; Provided that the payment to be made in each case on the first of the said quarterly days which shall happen after the accrual of the right thereunto of the person receiving the same under this Act, shall be a rateable proportion of a Quarter's Salary, according to the time then elapsed since the accrual of such right; and in case of a vacancy in the office of such Master, Registrar or Clerk, the person making the vacancy, his executors or administrators, shall be entitled to a proportional part of his salary according to the time elapsed between the vacancy and the last quarterly payment.

Recital.
Act of this session c. 63.

Registrar of the court to be appointed.

Registrar may appoint a clerk.

Salaries of Registrar, master and clerk, and how payable.

Proviso as to broken periods.

As to arrears in case of vacancies, &c.

XIII. And be it enacted, That neither the said Master, Registrar or Clerk shall be entitled to or take for his own use or benefit, directly or indirectly, any fee or emolument whatsoever, save the salary to which he shall be entitled by virtue of this Act: and the like sums and fees heretofore payable and receivable in the said Court of Chancery shall continue to be payable and receivable by the like persons: and all the fees, dues and emoluments, perquisites and profits received by or on account of the said Master and Registrar shall form part of the Consolidated Revenue Fund of this Province, and shall be accounted for to Her Majesty, Her Heirs and Successors, through the Lords Commissioners of Her Majesty's Treasury for the time being, in such manner and form as Her Majesty, Her Heirs and Successors shall direct.

Master, registrar and clerk to take no fees for their own use.

Fees to continue payable, but to go to the Province.

XIV. And be it enacted, That the said Master and Registrar of the said Court of Chancery respectively, shall, on the four quarterly days hereinbefore mentioned, make up and render to the Inspector-General of Public Accounts of this Province, a True Account in writing of all the fees, dues, emoluments, perquisites and profits received

Master and Registrar to render accounts to the Inspector-General.

by

And pay over moneys received for the province.

by or on account of the said offices respectively, in such form and with such particulars as the said Inspector-General shall from time to time require; which said accounts shall be signed by the officer rendering the same, and shall be declared before one of the Judges of the Court to which he belongs; and such officers respectively shall, within ten days after the rendering of such account, pay over the amount of all such fees, dues, emoluments, perquisites and profits to the Receiver-General of this Province; and if default shall be made in such payment, the amount due by the officer making default shall be deemed a specialty debt to Her Majesty.

Act may be amended this session.

XV. And be it enacted, That this Act may be amended, altered, or repealed during the present session.

Commencement of this Act.

XVI. And be it enacted, That this Act shall come into force on the first day of January next, or at such earlier day as shall be appointed for that purpose by Proclamation under the Great Seal of this Province.

C A P. L X V.

An Act to increase the Salary of the Reporter of the Court of Chancery in Upper-Canada.

[30th May, 1849.]

Preamble.
Act 8 V. c. 39,
cited.

WHEREAS by an Act passed in the eighth year of Her present Majesty's Reign, intituled, *An Act to authorize the appointment of a Reporter in the Court of Chancery*, the Law Society of Upper-Canada is empowered to appoint a Reporter to the said Court of Chancery, with a Salary not to exceed one hundred pounds per annum; And whereas it is expedient to assign to the Reporter of the Court of Chancery the same Salary as is enjoyed by the Reporter of the Court of Queen's Bench, and for that purpose to amend so much of the fourth clause of the above recited Act as limits the Salary of the Reporter of the Court of Chancery to the sum of one hundred pounds: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall be lawful for the said Society of Upper-Canada, to assign to the Reporter of the Court of Chancery the same Salary as is now or may hereafter be enjoyed by the Reporter of the Court of Queen's Bench in Upper-Canada; any thing in the said recited Act notwithstanding.

What salary may be allowed to the Chancery Reporter.

CAP. LXVI.

An Act to amend and extend the provisions of the Act of this Province, intituled, *An Act to amend, consolidate and reduce into one Act the several Laws now in force, establishing or regulating the practice of the District Courts in the several Districts of that part of this Province formerly Upper-Canada.*

[30th May, 1849.]

WHEREAS it is advisable to make further provision regulating the practice of the several District Courts in Upper-Canada: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, 'That the seventh, eighth and twenty-fifth clauses of the Act of the Parliament of this Province, passed in the eighth year of Her Majesty's Reign, and intituled, *An Act to amend, consolidate and reduce into one Act the several Laws now in force, establishing or regulating the practice of the District Courts in the several Districts of that part of this Province formerly Upper-Canada*, be, and the same are hereby repealed: Provided always, that the repeal of the said seventh, eighth and twenty-fifth clauses shall not in any wise affect or invalidate any act, proceeding, matter or thing whatever that may have heretofore been had, issued, made, done or entered into, but the same shall be and remain as valid and effectual to all intents and purposes as if this Act had not been passed.

Preamble.

Sect. 7 and 8
and 25 of 8
Vict. c. 13 re-
pealed.

Proviso as to
things done
before the pas-
sing of this
Act.

II. And be it enacted, That in all cases where it is not intended to hold the Defendant to special bail, the original Process for compelling the appearance of the Defendant in any suit to be brought in the said Courts respectively, shall be a Writ of Summons, in the form of the Schedule to this Act annexed marked A, which shall bear *teste* on the day on which it issues, and be returnable immediately after the service thereof, and which shall be considered to all intents and purposes the commencement of the action, a copy of which shall be personally served upon the Defendant or on each of the Defendants, if more than one, or in case the action be against a Corporation, upon the proper Officer thereof, by some literate person, which Writ shall be served within three months from the date thereof: And that in case the Defendant shall not appear within eight days after such service, it shall be lawful for the Plaintiff, upon affidavit being made and filed of the service of such Process, to enter an appearance for such Defendant, and thereupon to file his declaration, and to proceed thereupon according to the practice of the said Court of Queen's Bench in actions not bailable; Provided always, that the costs to be allowed and charged for such Writs shall be the same as for Writs of *Capias ad respondendum*.

What shall be
the original
process and
proceedings in
cases where
the Defendant
is not to be
held to special
Bail.

Proviso as to
costs.

III. And be it enacted, That the original Process in any bailable action to be brought in the said Courts respectively after this Act shall come into effect, shall be a Writ of *Capias ad respondendum*, which shall bear *teste* on the day on which it issues.

What shall be
the original
process in
bailable ac-
tions.

IV.

Original *alias* or *pluries* writs of *capias ad respondendum* how obtainable.

What bail shall be given, and what further proceedings shall be had.

Proviso.

Proviso.

IV. And be it enacted, That it shall be lawful for the Plaintiff, his Servant, or Agent in any action now pending or hereafter to be brought in any of the said District Courts, at any time after action brought and before final judgment, upon making such an affidavit as is required by Law in Upper-Canada in similar cases in the said Court of Queen's Bench, to sue out an Original *alias* or *pluries*, *Capias ad respondendum*, as the case may require in the said suit, and cause the Defendant to be thereupon arrested and holden to bail, which bail, if the Writ shall have been sued out after appearance being filed, shall be bail to the action, and shall be perfected before the Defendant shall be discharged from the custody of the Sheriff, and the suit shall in all such cases proceed after bail put in and perfected as the same would have proceeded if no such bailable Writ had been taken out: Provided always, that the second, third, fourth and fifth sections of this Act, shall not come into force until the tenth day of June next after the passing of this Act: And provided also, that the Process in any action commenced before the day last aforesaid by non-bailable *Capias ad respondendum*, shall and may be continued by *alias* or *pluries* Summonses, in the same way as if the suit had been commenced by Summons under the provisions of this Act.

Recital of doubts.

Attornies of Q. B. and members of the Legislative Council or Assembly may be sued in the same manner as other persons.

Proviso as to exemptions from arrest.

V. And whereas doubts have arisen respecting the jurisdiction of the said Courts in actions against Attorneys and Members of the Legislative Assembly and Legislative Council of this Province, and the mode of proceeding in such actions therein: Be it therefore enacted, That from and after the passing of this Act, it shall be lawful for any person or party having a cause of action within the jurisdiction of the said District Courts against an Attorney or Attorneys of the said Court of Queen's Bench, or any Member of the Legislative Assembly or of the Legislative Council of this Province, to commence and prosecute to Judgment and Execution any action for the recovery thereof in the said District Courts without filing a bill, and in the same manner and by the like process as against any other Defendant, any custom or privilege to the contrary notwithstanding; and if in any such action the Defendant shall plead any privilege in abatement thereto, the Plaintiff shall and may be at liberty to treat such plea as a nullity and to sign judgment as for a want of a plea; Provided that nothing in this Act contained shall subject any person to arrest who by reason of any privilege, usage or otherwise, may now by law be exempt therefrom.

Certain powers conferred on the District Judges in vacation.

VI. And be it enacted, That the several Judges of the said District Courts shall have and may exercise the like power in vacation to issue summonses and make orders in all matters of practice arising in suits in the same Courts respectively, as are exercised in vacation by the Judges of the Court of Queen's Bench in Upper-Canada in matters of practice arising in the said last mentioned Court.

True intent of section 50, of the amended Act declared, as to recognizances of bail.

VII. And be it declared and enacted, That it was and is the intention and true meaning of the fiftieth section of the Act aforesaid, that all recognizances of bail taken in any of the said District Courts might and may be entered of record in the Court in which the suit shall have been or shall be instituted, and that action of debt or *scire facias* should and shall lie thereupon in the said District Courts as in similar cases in the Court of Queen's Bench, whatever may have been or shall be the amount recovered or for which the bail therein mentioned may have been or shall be liable.

Doubts recited.

VIII. And whereas doubts have arisen whether the stating and claiming of different sums in the several Courts of a declaration upon causes of action within the jurisdiction

jurisdiction of the District Courts, amounting in the aggregate to a sum beyond the Jurisdiction thereof, is not demurrable, notwithstanding that the damages at the conclusion are laid at a sum within the jurisdiction, and it is desirable that such a course of proceeding should be declared legal: Be it therefore enacted, That although the sums mentioned or claimed in the different Counts of any declaration heretofore or hereafter to be filed in the said Courts shall or may in the aggregate exceed the jurisdiction of the said District Courts, yet that no such declaration or any subsequent pleading, on that ground, shall be subject to any objection either by demurrer or otherwise: Provided that in any such declaration, the damages laid at the conclusion thereof shall not exceed the jurisdiction of the said Courts: Provided also, and it is hereby further enacted, that no declaration or pleading after declaration shall be filed or delivered in any action in the said District Courts, between the first day of July and the twenty-first day of August, in each and every year: and provided further, that the party shall in every defended case be entitled to the same number of days, after the said twenty-first day of August, to plead or answer any pleading filed or delivered before the first day of July, to which he would have been entitled after the day last aforesaid if this Act had not been passed.

Demurrer, &c., not allowed because the total of the sums mentioned in different Courts exceeds the jurisdiction of the Court.
 Proviso.
 Proviso.
 Proviso.

IX. And be it enacted, That from and after the passing of this Act, it shall not be necessary in any case, in the said District Courts, to enter any other *venire* than the following upon the record, that is to say: Therefore the Sheriff, (or Coroner, as the case may be) is (or are) commanded that he (or they) cause to come before
 Esquire, Judge of our said Court, at the next sitting thereof for trials and assessments, at the Court House, in _____ in the said District, on
 Tuesday, the _____ day of _____ in the year of Our Lord
 one thousand eight hundred and _____ a Jury to try the said issue,
 (or assess the damages, as the case may be). Provided, that when there are issues in law and also in fact, or upon any assessment of damages, the above *venire* may be altered and adapted to the particular case.

What form of *venire* it shall be sufficient to enter upon the Record.
 Proviso.

X. And be it enacted, That in addition to the powers conferred upon the said District Courts by the forty-third section of the said hereinbefore mentioned Act, it shall be lawful for the said Courts to entertain applications and at their discretion to make orders for Judgment *non obstante veredicto*, according to the course and practice of the said Court of Queen's Bench, and that an appeal under the provisions of the fifty-seventh section of the aforesaid Act may be had to the said Court of Queen's Bench from the said District Courts upon any decision or motion for Judgment *non obstante veredicto*, and also for the reception of improper evidence or the improper rejection of evidence, upon which shall be allowed the same costs and charges as are allowed for any other proceeding under the said fifty-seventh section.

Certain additional powers conferred on the District Judges in addition to those in section 43 of the amended Act.
 Appeal under section 57.

XI. And be it enacted, That in case any party shall be desirous of appealing against the decision of the Judge upon any matter provided for in the fifty-seventh section of the said Act, it shall be the duty of the Judge, at the request of the party intending to appeal, his Attorney or Counsel, to stay the proceedings for any time not exceeding four days, so as to afford the party appealing, time to execute and perfect the Bond required by the said section.

Suspension of proceedings on notice of intention to appeal.

Clerks of District Courts and Deputy Clerks of the Crown to keep their Offices at certain places, and open at certain hours.

Any British Subject may be such Clerk.

XII. And be it enacted, That from and after the passing of this Act, each and every Clerk of any such District Court, and the Deputy-Clerk of the Crown in each District, shall hold his office in the Court House or in some other convenient place within the District Town of his respective District, and shall keep such office open for the transaction of business pertaining to such office on every day (Sundays and the legal holy-days excepted) from the hour of ten in the forenoon to the hour of three in the afternoon, and in term time from the hour of nine of the clock in the morning to the hour of four of the clock in the afternoon; and that no British subject, whatever his profession, calling or employment, shall in future be deemed disqualified to hold the office of Clerk of the District Court or Deputy-Clerk of the Crown in Upper-Canada; any law or enactment heretofore made to the contrary thereof notwithstanding.

SCHEDULE A.

Writ of Summons.

VICTORIA, &c.

To C. D., of _____, in the County of _____, Greeting:

We command you (*or as before or often we have commanded you*) that within eight days after the service of this Writ on you, inclusive of the day of such service, you do cause an appearance to be entered for you in Our District Court of the District of _____, at _____, in an action on promises (*or as the case may be*) at the suit of A. B. And take notice that in default of your so doing, the said A. B. may cause an appearance to be entered for you, and proceed thereon to judgment and execution.

Witness (*name of Judge*) at (*place where Court sits*) this day of _____

Clerk's name.

Memorandum to be subscribed on the Writ.

N. B.—This is to be served within three calendar months from the date thereof, including the day of such date, and not afterwards.

C A P. L X V I I.

An Act to reduce the Expense of Proceedings in Upper-Canada against the Property of Absconding or Concealed Debtors.

[30th May, 1849.]

Preamble.

WHEREAS unnecessary costs are incurred in proceedings in Upper-Canada, against the property of Absconding or Concealed Debtors, in consequence of the Sheriff, to whom various Writs of Attachment may be directed, being by Law compelled to cause a separate notice in each attachment to be inserted in the *Upper-Canada Gazette*, and also in some one or more of the Newspapers printed in his District: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the

the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the second Section of the Act of the Legislature of Upper-Canada, passed in the second year of the Reign of His late Majesty King William the Fourth, and intituled, *An Act to afford means for Attaching the Property of Absconding Debtors*, be and the same is hereby repealed; Provided always, that notwithstanding the repeal of the said Section, any notice inserted before the passing of this Act, under the provisions of the said Section, may be continued in the same way and for the same time, and with the same effect as if this Act had not been passed.

Section 2 of Act of U. C. 2 Will. 4. c. 5, repealed.

Proviso as to notices published before the passing of this Act.

II. And be it enacted, That from and after the passing of this Act, it shall be the duty of the Sheriff making a seizure under any Writ of Attachment against the property of any Absconding or Concealed Debtor or Debtors, as to whom he shall not have already caused the notice hereinafter mentioned to be published, under any Writ issued within six months next preceding the date of such Writ, immediately to cause a notice to be inserted in the *Canada Gazette*, and also in some one or more of the Newspapers published and printed in his District, and to be continued weekly for at least three calendar months; which notice shall set forth that by virtue of the said Writ he has seized all the Estate, real and personal, of such absconding or concealed person or persons, and that unless such absconding or concealed person or persons (naming the same) return within the jurisdiction of the Court from whence such Writ issued, and put in bail to the action, or cause the claim or claims of such Plaintiff or Plaintiffs (naming the same) to be discharged within three calendar months after such public notice, (to be computed from the first day of publishing the same in the *Canada Gazette*), all his, her or their Estate, real or personal, or so much thereof as may be necessary, will be held liable for the payment, benefit and satisfaction of the claim or claims of such Plaintiff or Plaintiffs, as well as for the payment, benefit or satisfaction of the claim or claims of such other Plaintiff or Plaintiffs, as shall or may take proceedings against the property and effects of such Absconding or Concealed Debtor or Debtors within six months from the issuing of the Writ of Attachment, in virtue of which such notice shall be so published; and such notice and service of a copy thereof upon the several or respective Debtor or Debtors, of any such Absconding or Concealed Debtor or Debtors, as provided in the ninth Section of the hereinbefore mentioned Act, shall enure and be held sufficient and effective to all intents and purposes, for the benefit of all and every Plaintiff or Plaintiffs in such Writ or Writs of Attachment as shall be issued within six months from the issuing of the Attachment, against the property or effects of such Absconding or Concealed Debtor or Debtors, in virtue of which such notice shall be so published, and every such subsequent Writ of Attachment shall and may be proceeded in without the necessity of such previous notices, or either of them, being given therein, and may be made available to all intents and purposes, in the same manner as if such notices had been given therein: Provided always, that the Defendant in any Attachment shall be entitled to three calendar months from the day of the issuing thereof, to give the Bond mentioned in the fourth and fifth Sections of the hereinbefore mentioned Act: And provided also, that in any distribution that may be made of the proceeds of the Estate of any Absconding or Concealed Debtor, the amount of the charges for advertising shall be allowed in full to the first attaching Creditor, in addition to his proportion of such proceeds.

What notice the Sheriff seizing under a writ of attachment against any absconding debtor shall give, &c.

Proviso as to delay to give security: and as to costs of notice.

CAP. LXVIII.

An Act to amend and extend the provisions of the Act of this Province, intituled, *An Act to allow the issuing of Testatum Writs of Capias ad respondendum, in the several Districts of Upper-Canada, and for other purposes therein mentioned.*

[30th May, 1849.]

Preamble.

Act 8 Vict. c. 36, cited.

Deputy Clerks of the Crown may tax costs and enter final judgment in certain cases.

Proviso: a rule may be had to tax at Toronto.

Recital.

Certain judgments upon *cognovit* declared regular.

WHEREAS it is expedient to extend the provisions of the Act of the Parliament of this Province, passed in the eighth year of the Reign of Her Majesty Queen Victoria, intituled, *An Act to allow the issuing of Testatum Writs of Capias ad respondendum in the several Districts of Upper-Canada, and for other purposes therein mentioned*: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall and may be lawful for the Deputy-Clerk of the Crown, in each of the Districts of Upper-Canada, at the election of the party entitled to judgment, to tax costs, and enter final judgment in all suits in which the venue shall be laid, and the proceedings carried on, and the original pleadings filed within such District, whether such judgment be upon verdict, computation, *cognovit*, warrant of attorney or otherwise, and whether such *cognovit* be given in the first instance or after other proceeding had in the suit or cause wherein the same shall have been taken; and to issue all original or *testatum* writs, or *alias* or *pluries* writs of *fieri facias*, or *Capias ad satisfaciendum*, according to the practice of the Court of Queen's Bench, which said Writs shall be supplied to the said Deputies respectively, in the same manner as other Writs are now supplied to them from the chief office at Toronto; Provided always, that it shall be lawful for the opposite party, in any case, to sue out a rule from the principal office at Toronto, for the taxation of costs in such suit by the Master thereat, and thereupon such costs shall be taxed, and final judgment entered at the principal office at Toronto.

II. And whereas in some instances judgments in outer Districts have been held to be irregular, and the same and proceedings thereupon have been set aside in consequence of the *cognovits* upon which the same were entered having been taken in the first instance, and before other proceeding had in the cause: For remedy thereof—Be it enacted, That every judgment upon *cognovit actionem*, heretofore entered by the Deputy-Clerk of the Crown in any District of Upper-Canada, and regular in other respects, and not already set aside or in which proceedings shall not have been instituted to dispute the validity of such judgment or to set aside the same before the passing of this Act, shall be deemed and held to be regular to every intent, whether the *cognovit* upon which the same was so entered was given in the first instance or otherwise.

CAP. LXIX.

An Act to authorize Attachments against Personal Property, for sums of ten pounds and under in certain cases in Upper-Canada.

[30th May, 1849.]

WHEREAS it is necessary to provide further protection to Creditors, and to afford the means of attaching the personal property of absconding, removing or concealed Debtors in Upper-Canada, for any sum to the amount of ten pounds, and not less than twenty shillings, for any debt or damage arising upon any contract express or implied, or upon any judgment: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That if any person or persons in any District of Upper-Canada, being indebted in such sum and manner as mentioned in the preamble to this Act, shall abscond from this Province, leaving personal property liable to seizure under Execution for Debt, in any District in Upper-Canada, or shall attempt to remove his, her or their personal property of the description above-mentioned, either out of Upper-Canada or from one District to another therein, or from Upper to Lower-Canada, or shall keep concealed in any District of Upper-Canada to avoid service of Process, with intent and design to defraud his or her Creditor or Creditors, it shall and may be lawful for any Creditor or Creditors of such person or persons, his, her or their Servant or Agent, to make application to the Clerk of any Division Court of the District wherein the Debtor or Debtors were or was last domiciled, or where the debt was contracted, or to the Judge of the District Court therein, or to any Justice of the Peace in any District of Upper-Canada, and upon making or producing an affidavit or affirmation to the purport of that in the Schedule to this Act annexed marked A, (which affidavit or affirmation the said Clerks, Judges and Justices of the Peace are respectively hereby authorized to administer,) and upon then and there filing the said affidavit or affirmation with such Clerk, Judge, or if taken before a Justice of the Peace with such Justice of the Peace (whose duty it shall be to transmit the same forthwith to the Clerk of the Division Court within whose Division the same was so made or taken, to be filed and kept among the papers in the cause,) it shall be lawful for such Clerk, Judge or Justice of the Peace forthwith to issue a Warrant under his hand and seal, directed to the Bailiff of the Division Court within which the same was issued, or to any Constable of the District, commanding such Bailiff or Constable to attach, seize, take and safely keep all the personal estate and effects of the absconding, removing or concealed person or persons, of what nature and kind soever, liable to seizure under execution for debt, within such District, or a sufficient portion thereof to secure the sum mentioned in the Warrant, with the costs of the action, and to return the same forthwith to the Division Court of the Division wherein such Warrant was issued, upon receipt of which Warrant the Bailiff or Constable to whom the same may be directed, shall forthwith execute the same, and with the assistance of two freeholders make a just and true inventory of all such personal estate and effects as he shall seize and take by virtue thereof, and shall forthwith return the same to the Clerk of the Division Court

Preamble.

Personal property of concealed or absconding debtors may be attached on certain conditions.

Affidavit to be made and filed.

Warrant to be issued for seizing the property.

How such warrant shall be executed. Appraisement and return.

Proviso: fees of appraisers, &c.

Proviso: in what Court the proceedings shall be conducted and completed.

Proviso: Plaintiff not to divide his cause of action for the purpose of bringing actions in a Division Court, &c.

Property to be in the custody of the Clerk of the Court.

Defendant may obtain a release of the property on giving security, &c.

If security be not given, the property shall be sold when-

Court of the Division within which such Warrant was issued, and which Warrant may be in the form of that in the Schedule to this Act annexed marked B; Provided always, that the freeholders and appraisers authorized by this Act shall be entitled to receive for each day they may be employed in carrying its enactments into effect the sum of two shillings and six pence each, to be paid in the first instance by the Plaintiff or Plaintiffs and allowed in the costs of the cause: Provided always, that proceedings may be conducted to Judgment and Execution in any case commenced by Attachment under the provisions of this Act, in the Division Court of the Division within which the Warrant of Attachment shall issue; and that when proceedings shall be commenced in any case before the issuing of an Attachment under the provisions of this Act, such proceedings may be continued to Judgment and Execution in the Division Court within which such proceedings may have been commenced, and the property seized upon any such Attachment, shall be liable to seizure and sale under the Execution to be issued upon such judgment or the proceeds thereof, in case such property shall have been sold as perishable, shall be applied in satisfaction of such judgment; Provided further, that it shall not be lawful for any Plaintiff to divide any cause of action into two or more suits for the purpose of bringing the same within the jurisdiction of any Division Court, but any Plaintiff having a cause of action above the value of ten pounds, for which an Attachment might be issued under this Act, if the same were not above the value of ten pounds, may abandon the excess, and upon proving his case, shall and may recover to an amount not exceeding ten pounds, and the judgment of the Court in such case shall be in full discharge of all demands in respect of such cause of action, and the entry of judgment therein shall be made accordingly.

II. And be it enacted, That all property seized under the provisions of this Act, shall be forthwith handed over to the custody and possession of the Clerk of the Division Court of the Division within which the Warrant was issued, who shall take the same into his charge and keeping, and shall be allowed all necessary disbursements for keeping the same.

III. And be it enacted, That if any person or persons against whose estate or effects, such Warrant or Warrants may have been issued, or any person or persons on his, her or their behalf, shall at any time prior to the recovery of judgment in the cause, execute and tender to the creditor or creditors who sued out such Warrant or Warrants as aforesaid, and shall file in the Division Court to which the Warrant or Warrants of Attachment shall have been returned a bond with good and sufficient sureties, to be approved of by the Judge or Clerk of the Division Court, binding the obligors, jointly and severally, in double the amount of the sum claimed, conditioned that the debtor or debtors, (*naming him, her or them*) shall in the event of the claim being proved and judgment being recovered thereon, as in other cases where proceedings have been commenced against the person, pay the same, or the value of the property so taken and seized, to the claimant or claimants, or shall produce such property whenever thereunto required to satisfy such judgment, it shall and may be lawful for such Clerk to supersede such Warrant, and all and singular the property which may have been attached shall be restored.

IV. And be it enacted, That if after the period of one month from the seizure aforesaid, the party against whom the Warrant issued, or some one on his behalf, do not appear and give such bond with sureties conditioned as above mentioned, whenever and

and as soon as judgment shall have been obtained upon such claim or claims, execution thereupon may immediately issue, and the property seized upon such attachment or attachments, or enough of such property to satisfy the same, may be sold thereon to satisfy the same according to law, or enough of the proceeds thereof may be applied to satisfy the judgment and costs, if the same shall have been previously sold under the provisions of this Act, as perishable property.

ever judgment is obtained.

V. And be it enacted, That in order to proceed in the recovery of any debt due by the person or persons against whose property a Warrant shall have issued under this Act, where Process shall not have been previously served, the same may be served either personally or by leaving a copy at the last place of abode of the Defendant, with any person or persons there dwelling, or by leaving the same at the said dwelling, if no person be there found; and in every case, all subsequent proceedings shall and may be conducted according to the usual course of practice and proceedings in the Division Court aforesaid: Provided always, that if it shall appear to the satisfaction of the Judge in the trial of any cause, upon affidavit or other sufficient proof, that the creditor or creditors suing out an attachment under the provisions of this Act, had not reasonable or probable cause for taking such proceeding, then it shall be the duty of the Judge to order that no costs whatever shall be allowed to such creditor or creditors, plaintiff or plaintiffs therein, and no costs in such case shall be recovered in the cause.

As to service in cases where there has been none previous to the suing out of the warrant.

Proviso: Where there was no reasonable cause for the attachment.

VI. And be it enacted, That in case any horses, cattle, sheep or other perishable goods or chattels shall be taken upon any Warrant to be issued under this Act, it shall be lawful for the Clerk of the Court in whose custody or keeping the same shall be, to have the same valued by two freeholders, and at the request of the plaintiff suing out the Warrant, to expose and sell the same at public Auction to the highest bidder, giving at least eight days' notice, at the office of the Clerk of the said Division Court, and at two other public places within such Division, of the time and place of such sale, if the articles seized will admit, otherwise to sell the same at his discretion: Provided always, that it shall not be compulsory upon the Bailiff or Constable to seize, or upon the Clerk to sell such perishable articles, until the party suing out the Warrant shall have given a bond to the defendant or defendants therein, with good and sufficient sureties in double the amount of the appraised value thereof (to be ascertained as aforesaid) conditioned that the party directing such seizure and sale will repay the value thereof, together with all costs and damages that may be incurred in consequence of such seizure and sale, in case judgment be not obtained for such party suing out such attachment, which bond shall also be filed with the papers in the cause: Provided always, that any bond given in the course of any proceeding under this Act, may be sued in any Division Court of the District wherein the same shall have been executed, and proceedings may be thereupon carried on to judgment and execution in such Court notwithstanding the penalty contained in such bond may exceed the sum of Ten pounds: And provided further, that every such bond shall and may be delivered up to the party entitled to the same, by the order and at the discretion of the Judge of such Court to be enforced or cancelled, as the case may require.

What shall be done with perishable goods.

Proviso: seizure not to be made until the plaintiff gives security.

Proviso: in what court bonds given under this Act may be sued upon.

Proviso as to the delivery of the Bond.

VII. And be it enacted, That any residue which may remain after satisfying such judgment, with the costs thereupon, shall be delivered to the defendant, or to the agent of the defendant, or to the person or persons in whose custody the same were found, whereupon the responsibility of the Clerk as respects such property shall cease.

Residue to be paid to defendant.

VIII.

Costs on proceedings under this Act.

VIII. And be it enacted, That in addition to the usual costs allowed on proceedings in the Division Courts, the following charges shall be taxed and allowed against the defendant for the several proceedings under this Act, viz:

	£	s.	d.
Every Oath or Affirmation, including the drawing thereof.....	0	1	6
Every Warrant.....	0	1	3
Every Mile necessarily travelled in going to seize.....	0	0	4
Every Schedule of Property seized, and return, including Affidavit of Appraisal.....	0	2	6
Every Bond, including Affidavit of Justification.....	0	2	6
To the Clerk for taking charge of and keeping the property seized, such sum as the Judge may order in each particular case.			

Recital.

Judgments of Division Courts to carry interest.

IX. And whereas, by the present practice in some of the Division Courts in Upper-Canada, no interest is allowed on the amount recovered under any judgment therein, and it is considered doubtful whether interest can be charged thereon, and it is right that such interest should be allowed and recoverable: Be it therefore enacted, That legal interest shall be allowed and recoverable upon the sum recovered under any judgment of a Division Court in Upper-Canada, (reckoning from the date of the entry thereof,) upon the amount remaining unpaid of the sum so recovered, and such interest, if not paid, shall be levied in the same manner as the amount of the judgment itself, and paid over in like manner to the plaintiff, and the judgment shall mention the day from which interest is to be recovered, and the Bailiff levying under the judgment shall ascertain and levy the amount thereof at the rate aforesaid.

Any person may be sued in a Division Court.

X. And be it enacted, That no privilege shall be allowed to any person to exempt him from suing or being sued in the Division Courts aforesaid, upon any cause of action within the jurisdiction of the said Courts.

Executors, &c. may sue in the said Courts.

XI. And be it enacted, That it shall and may be lawful for any executor or administrator to sue and be sued in any Division Courts in Upper-Canada, in like manner as if he were a party in his own right, and the judgment and execution shall be such as in the like cases would be given or issued in any Superior Court.

Clerk to make a copy of summons, &c. for each defendant.

Fee for so doing.

XII. And be it enacted, That it shall be the duty of the Clerks of the several Division Courts in Upper-Canada, to make out a copy of the Summons for each defendant in every suit, together with a copy of the particulars of the plaintiff's demand therein, for service, for which such Clerks shall be entitled to receive six pence, for each defendant, to be allowed in the costs of the cause; and such Clerks shall and may issue *alias* and *pluries* Summonses in actions within the said Courts, for which the same costs shall be allowed as for original Summonses.

On what proof judgment may be given in undefended cases.

XIII. And be it enacted, That it shall be lawful for the Judges of the said Courts respectively, upon proof of personal service of a copy of Summons, and of the particulars of the plaintiff's demand, in undefended cases, to give judgment in their discretion for any such demand.

XIV. And be it enacted, That the Judges of the said Courts, upon proof of and being satisfied with the general correctness of the plaintiff's books, may receive the same in evidence and give judgment to the amount of two pounds in any cause within the said Courts; and that it shall be lawful for the Judge of any such Division Court, in his discretion, to grant a new trial, upon application of either party, within fourteen days after the trial of any cause therein.

As to receiving plaintiff's books in evidence.

As to new trial.

XV. And whereas it is desirable that judgments in the said Division Courts should be revived by and against the personal representatives of the parties thereto: Be it therefore enacted, That in the event of the death of either or both of the parties to any such judgment, it shall and may be lawful for the party in whose favor such judgment may have been entered, or his personal representatives in case of his death, to revive such judgment against the other party, or his personal representatives in case of his death, and to issue execution thereupon, according to such practice and after such notice therein, as may be provided and established by the Judges of the said Courts respectively.

Judgments may be revived in favor of certain cases.

XVI. And be it enacted, That the Judges of the District Courts respectively shall have power, from time to time, to make general rules for regulating the practice and proceedings of the said Division Courts, and also to frame forms for any proceeding in the said Courts, for which they shall think it necessary that a form be provided, and from time to time to alter any such form.

Judges may make Rules of practice and forms.

XVII. And whereas the amount of business in certain Divisions is not so great as to require the holding of Courts therein once in every two months, while from the remoteness and inaccessibility of the same, the holding of the said Courts therein is, especially at certain seasons of the year, attended with great difficulty: Be it therefore enacted, that if it shall be certified to His Excellency the Governor-General in Council, by the Magistrates of any District in Quarter Sessions assembled, that in any Division of such District, it is expedient for the above causes that such Courts should be held there less frequently than once in every two months, it shall and may be lawful for His Excellency in Council to order such Courts to be held therein, at such periods as to His Excellency in Council shall seem fit: Provided always, that such Courts shall be held in any such Division at least once in every six months, and that it shall be lawful for His Excellency in Council to revoke any such order at pleasure.

Recital.

Governor in Council may in certain cases diminish the frequency of sittings of any Division Court.

Proviso: Court to be holden at least every six months.

XVIII. And be it enacted, That it shall not be necessary that any person to be appointed as Deputy for holding any Division Court in the absence of the Judge shall be a Barrister of five years' standing, nor resident in the District in which he is appointed to act, but that it shall be sufficient if he be a Barrister duly admitted as such.

Deputy Judge need not be a Barrister of five years' standing.

SCHEDULE A.

District of _____ } A. B., of _____, in the District of _____,
 (Here state the District.) } (the Plaintiff or Agent, as the case may be,) maketh oath
 and saith, that C. D. (the debtor's name) is or are justly and truly indebted to (the
 creditor's name) in the sum of _____ of lawful money of Canada,
 for _____

for (*here state the cause of action briefly*). And this Deponent further saith, that he hath good reason to believe, and verily doth believe, that the said C. D. hath absconded from this Province with intent and design to defraud the said A. B. (*the creditor*) of the said debt, and hath left personal property liable to seizure under execution for debt within the District of _____; or that the said C. D. (is or are) about to abscond from this Province, or to leave the District of _____, with intent and design to defraud the said _____ (*the creditor*) of the said debt, taking away personal estate liable to seizure under execution for debt; or that the said C. D. is concealed within the District of _____, to avoid being served with Process, with intent and design to defraud the said _____ (*the creditor*) of his said debt; and this Deponent further saith, that this affidavit (*or affirmation, as the case may be,*) is not made, nor the Process thereon to be issued, from any vexatious or malicious motive whatever.

Sworn (*or affirmed, as the case may be,*) before me, }
 the _____ day of _____, one thousand } *Signature of Deponent here.*
 eight hundred and _____

SCHEDULE B.

District of _____ } To A. B., Bailiff of the Division Court of the said
 (*Here insert the District.*) } District of _____, or

To A. B., a Constable of the said District of _____ (*as the case may be.*)

You are hereby commanded to attach, seize, take and safely keep all the personal estate and effects of C. D. (*naming the debtor,*) an absconding, removing or concealed debtor, of what nature or kind soever, liable to seizure under execution for debt, within the said District of _____ (*here name the District,*) or a sufficient portion thereof to secure A. B. (*here name the creditor*) for the sum of (*here state the amount sworn to be due,*) together with the costs of his suit thereupon, and to return this Warrant with what you shall have taken thereupon, to the Clerk of the (*here state the number of the Division*) Division Court of the District aforesaid forthwith—and herein fail not.

Witness my hand and seal, the _____ day of _____, 18 _____
 E. F., [L.S.]
 Clerk, Judge or Justice of the Peace, (*as the case may be.*)

C A P. L X X.

An Act to improve the Law of Evidence in Upper-Canada.

[30th May, 1849.]

Preamble.

WHEREAS the inquiry after truth in Courts of Justice is often obstructed by incapacities created by the present law, and it is desirable that full information as to the facts in issue, both in criminal and in civil cases, should be laid before the persons who are appointed to decide upon them, and that such person should exercise their judgment on the credit of the witnesses adduced, and on the truth of their testimony:

testimony: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That no person offered as a witness shall hereafter be excluded by reason of incapacity, from crime or interest, from giving evidence, either in person or by deposition, according to the practice of the Court, on the trial of any issue joined, or of any matter or question or on any inquiry arising in any suit, action or proceeding, civil or criminal, in any Court or before any Judge, Jury, Sheriff, Coroner, Magistrate, Officer or person having by law, or by consent of parties, authority to hear, receive and examine evidence: but that every person so offered may and shall be admitted to give evidence on oath, or solemn affirmation in those cases wherein affirmation is by law receivable, notwithstanding that such person may or shall have an interest in the matter in question, or in the event of the trial of any issue, matter, question or inquiry, or of the suit, action or proceeding in which he is offered as a witness, and notwithstanding that such person offered as a witness, may have been previously convicted of any crime or offence: Provided that this Act shall not render competent any party to any suit, action or proceeding individually named in the record, or any lessor of the plaintiff, or tenant of premises sought to be recovered in ejectment, or the landlord or other person in whose right any defendant in *replevin* may make cognizance, or any person in whose immediate or individual behalf any action may be brought or defended, either wholly or in part, or the husband or wife of such persons respectively.

Persons offered as witnesses not to be excluded for certain causes.

Proviso: parties to the suit not to be witnesses.

II. And be it enacted, That nothing in this Act shall apply to or affect any suit, action or proceeding brought or commenced before the passing of this Act; and that this Act shall apply only to Upper-Canada.

To what cases this Act shall apply.

CAP. LXXI.

An Act to simplify the transfer of Real Property in Upper-Canada, and to render certain rights and interests therein liable under execution.

[30th May, 1849.]

FOR simplifying the Assurance of Property by Deeds, and for facilitating the remedy of Judgment Creditors against the Property of their Debtors: Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the words and expressions hereinafter mentioned, which in their ordinary signification have a more confined or a different meaning, shall in this Act, except where the nature of the provision or the context of the Act shall exclude such construction, be interpreted as follows, that is to say: the word "Land" shall extend to messuages, lands, tenements, and hereditaments, whether

Preamble.

Interpretation of certain words in this Act.

whether corporeal or incorporeal, and to any undivided share thereof, and to any estate or interest thereon, and to money subject to be invested in the purchase of land or of any interest therein; the word "Conveyance" shall extend to a feoffment, grant, lease, surrender, or other assurance of land; the word "Person" shall extend to a Corporation as well as an individual; and every word importing the singular number only, shall extend and be applied to several persons or things as well as to one person or thing; and every word importing the masculine gender only, shall extend and be applied to a female as well as a male.

Land may be conveyed by deed, without livery of seizin, or a prior lease.

II. And be it enacted, That every person may convey by any deed, without livery of seizin, or a prior lease, all such land as he might before the passing of this Act have conveyed by lease and release; and every such conveyance shall take effect as if it had been made by lease or release.

Partitions, &c., to be by deed.

III. And be it enacted, That no partition or exchange or assignment of any freehold or leasehold land shall be valid at law unless the same be made by deed.

Lease and surrenders in writing to be by deed.

IV. And be it enacted, That no Lease in writing of any freehold or leasehold land, or surrender in writing of any freehold or leasehold land, shall be valid as a lease or surrender, unless the same shall be made by deed; but any agreement in writing to let or surrender any such land shall be valid and take effect as an agreement to execute a lease or surrender; and the person who shall be in possession of the land in pursuance of any agreement to let, may, from payment of rent or other circumstances, be construed to be a tenant from year to year.

As to agreements.

Contingent or executory interest may be conveyed by deed.

V. And be it enacted, That any person may convey, assign or charge by any deed, any such contingent or executory interest, right of entry for condition broken, or other future estate or interest as he shall be entitled to, or presumptively entitled to, in any freehold or leasehold land, or personal property, or any part of such interest, right or estate respectively; and every person to whom any such interest, right or estate shall be conveyed or assigned, his heirs, executors, administrators, or assigns, according to the nature of the interest, right, or estate, shall be entitled to stand in the place of the person by whom the same shall be conveyed or assigned, his heirs; executors, administrators or assigns, and to have the same interest, right or estate, or such part thereof as shall be conveyed or assigned to him, and the same actions, suits, and remedies for the same, as the person originally entitled thereto, his heirs, executors, or administrators, would have been entitled to if non-conveyance, assignment, or other disposition thereof had been made; provided that no person shall be empowered by this Act to dispose of any expectancy which he may have as heir, or heir of the body inheritable, or as next of kin under any Law for the distribution of the estates of intestates of a living person, nor any estate, right, or interest to which he may become entitled under any deed thereafter to be executed, or under the will of any living person, and no deed shall by force of this Act bar or enlarge any estate tail: Provided also, that no chose in action shall by this Act be made assignable at law.

Rights of the assignee.

Proviso: certain expectancies not to be assignable.

Proviso as to choses in action.

No implied warranty, &c., to be created by the word "Grant" or "Exchange."

VI. And be it enacted, That neither the word "Grant," nor the word "Exchange," in any deed shall have the effect of creating any warranty or right of re-entry, nor shall either of such words have the effect of creating any covenant by implication, except in cases where by any Act in force in Upper-Canada, it is or shall be declared that the word "Grant" shall have such effect.

VII. And be it enacted, That no conveyance shall be voidable only when made by feoffment or other assurance, where the same would be absolutely void if made by release or grant; and that no assurance shall create any estate by wrong, or have any other effect than the same would have if it were to take effect as a release, surrender, grant, lease, bargain and sale, or covenant to stand seized, as the case may be.

No assurance to have greater effect than a release, &c.

VIII. And be it enacted, That after the time at which this Act shall come into operation, no estate in land shall be created by way of contingent remainder; but every estate which before that time would have taken effect as a contingent remainder, shall take effect (if in a will or codicil) as an executory devise, and (if in a deed) as an executory estate of the same nature, and having the same properties as an executory devise; and contingent remainders existing under deeds, wills or instruments, executed or made before the time when this Act shall come into operation, shall not fail, or be destroyed or barred, merely by reason of the destruction or merger of any preceding estate, or its determination by any other means than the natural effluxion of the time of such preceding estate, or some event on which it was in its creation limited to determine.

Contingent remainders abolished, &c.

As to existing contingent remainders.

IX. And be it enacted, That when any person entitled to any freehold land by way of mortgage, has or shall have departed this life, and his executor or administrator is or shall be entitled to the money secured by the mortgage, and the legal estate in such land is or shall be vested in the heir or devisee of such mortgagee, or the heir, devisee or other assign of such heir or devisee, and possession of the land shall not have been taken by virtue of the mortgage, nor any action or suit be depending, such executor or administrator shall have power, upon payment of the principal money and interest due to him on the said mortgage, to convey by deed or surrender (as the case may require) the legal estate which became vested in such heir or devisee; and such conveyance shall be as effectual as if the same had been made by any such heir or devisee, his heirs or assigns.

Executor or administrator of mortgagee empowered to convey the legal estate vested in the heir or devisee.

X. And be it enacted, That the *bonâ fide* payment to and the receipt of any person to whom any money shall be payable upon any express or implied trust, or for any limited purpose, or of the survivors or survivor of two or more mortgagees or holders, or the executors or administrators of such survivor, or their or his assigns, shall effectually discharge the person paying the same from seeing to the application or being answerable for the misapplication thereof, unless the contrary shall be expressly declared by the instrument creating the trust or security.

Receipts of trustees to be effectual discharges.

XI. And be it enacted, That it shall not be necessary in any case to have a deed indented; and that any person, not being a party to any deed, may take an immediate benefit under it in the same manner as he might under a Deed Poll.

Indenting a deed unnecessary, &c.

XII. And be it enacted, That when the reversion of any land, expectant on a lease, shall be merged in any remainder or other reversion or estate, the person entitled to the estate into which such reversion shall have merged, his heirs, executors, administrators, successors and assigns, shall have and enjoy the like advantage, remedy and benefit against the lessee, his heirs, successors, executors, administrators and assigns, for non-payment of the rent, or for doing of waste or other forfeiture, or for not performing conditions, covenants, or agreements contained and expressed in his lease, demise or grant, against the lessee, farmer or grantee, his heirs, successors, executors, administrators

The remedies for the rent and covenants in a lease, not to be extinguished by the merger of the immediate reversion.

administrators and assigns, as the person who would for the time being have been entitled to the mesne reversion which shall have merged, would or might have had and enjoyed if such reversion had not been merged.

Any interest in lands which might be conveyed under this Act to be bound by judgments liable under execution.

XIII. And be it enacted, That any estate, right, title or interest in lands which, under the provisions of the fifth section of this Act, might be validly conveyed or assigned by any party, shall be bound by the judgments of any Court of Record, and shall be liable to seizure and sale under any Writ of Execution against such party, in like manner and on like conditions as lands of such party are now by law liable to seizure and sale under execution, and the Sheriff selling the same may convey and assign the same to the purchaser in like manner and with like effect as such party might himself have done.

Commencement of this Act.

XIV. And be it enacted, That this Act shall commence and take effect upon, and after the thirty-first day of December, one thousand eight hundred and forty-nine, and shall not extend to any deed, act or thing executed or done, or (except so far as regards the provisions hereinbefore contained as to existing contingent remainders) to any estate, right or interest created, before the first day of January, one thousand eight hundred and fifty.

Act to extend only to U. C.

XV. And be it enacted, That this Act shall extend only to Upper-Canada.

C A P. L X X I I .

An Act to provide for the Sale and Disposition of the Real Estate of Infants in certain cases therein mentioned.

[30th May, 1849.]

Preamble.

WHEREAS it is expedient to authorize the Sale and Disposition of the Real Estate of Infants in certain cases where the same is for their benefit: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That any Infant seized or possessed of, or entitled to any Real Estate in fee, for a term of years, or otherwise howsoever, in Upper-Canada, may, by his or her next friend, or by his or her guardian, apply to the Court of Chancery in and for Upper-Canada, for the sale or other disposition of such property, or a competent part thereof, in manner and for any of the purposes hereinafter directed: Provided always, that no such application shall be made to the said Court of Chancery without the consent of such Infant if he or she be of the age of seven years or upwards.

Application may be made for leave to sell real estate of Infants.

Proviso as to infants of or over seven years.

Court of Chancery may order the sale on certain conditions.

II. And be it enacted, That whenever, upon any such application as aforesaid, it shall appear satisfactorily to the said Court, that a disposition of any part of such Real Estate of such Infant is necessary and proper, either for the support and maintenance of such Infant or for his education, or that the interest of such Infant requires, or will be substantially

substantially promoted by such disposition, by reason of any part of his or her said property being exposed to waste and dilapidation, the Court may order the sale, or the letting for a term of years, or other disposition of such Real Estate or any part thereof, to be made under the direction of the Master of the said Court, or by the Guardian or Guardians of such Infant, or by any person appointed by the said Court for the purpose, in such manner and with such restrictions as to the said Court shall seem expedient, and may order the Infant to convey such Real Estate as the said Court shall think proper; and every such conveyance shall be as valid and effectual, to all intents and purposes, as if the Infant had been, at the time of making or executing the same, of the age of twenty-one years: Provided always, that no such Real Estate shall be so sold, leased or otherwise disposed of as aforesaid in any manner, against the provisions of any last will or of any conveyance by which such Estate was devised or granted to such Infant, or for his or her use.

Conveyance,
&c., how to be
made.

Conveyance,
&c., to be valid.

Proviso as to
estates by de-
vise, &c.

III. And be it enacted, That where the said Court shall find or deem it more convenient that the conveyance to be made and executed in pursuance of the provisions of this Act, should be executed by some person in the place of the Infant, then and in such case it shall be lawful for the said Court of Chancery to direct any person whom such Court may think proper to appoint for that purpose, in the place of the Infant, to convey such estate to such person, and in such manner as the said Court shall think proper; and every such conveyance shall be as valid and effectual to all intents and purposes, as if the Infant had made and executed the same, and had been of the age of twenty-one years at the time of making and executing the same.

Court may or-
der some per-
son other than
the infant to
make the con-
veyance.

IV. And be it enacted, That the moneys arising from any such sale, lease or other disposition, as hereinbefore mentioned, shall be laid out, applied and disposed of in such manner as the said Court shall direct.

Application of
money raised.

V. And be it enacted, That on any sale or other disposition which shall be made in pursuance of this Act, the moneys thereby raised, or the surplus thereof, as the case may be, shall be of the same nature and character as the Estate so sold or disposed of, and the heirs, next of kin, or other representatives of the Infant, shall have such and the like interest in any surplus which may remain of such moneys at the decease of such Infant, as they would have had in the Estate so sold or disposed of, if no such sale or other disposition had been made.

Money to re-
present the es-
tate.

VI. And be it enacted, That if the Real Estate of any Infant applying as aforesaid, or any part of it, shall be subject to Dower, and the person entitled thereto shall consent in writing to accept such gross sum in lieu of such Dower as the Court shall think reasonable, or the permanent investment of a reasonable sum in such manner as that the interest thereof be made payable to the person entitled to the said Dower during her life, the said Court may direct the payment of such sum in gross or the investment of such other sum as aforesaid, as the case may be, which sums so paid or invested shall be taken out of the proceeds of the sale of the Real Estate of such Infant.

A settlement
may be made
with any per-
son entitled
to Dower, and
paid out of
money raised.

VII. And be it enacted, That the said Court shall have full power and authority to make all such rules and orders as may be requisite for carrying this Act into effect, or for regulating the proceedings under it.

Court to make
rules, &c.

CAP. LXXIII.

An Act to provide for the Sale under Executions, of the interest of Mortgagors in Real Estate in Upper-Canada.

[30th May, 1849.]

Preamble.

WHEREAS it is expedient to provide by law, that the interest of Mortgagors and their Equity of Redemption, in Real Estate, may be sold upon Executions against lands and tenements in Upper-Canada: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the passing of this Act, it shall and may be lawful, upon any Writ of *Fieri Facias* lawfully issued against the lands and tenements in Upper-Canada of any person or persons who, or any of whom, may be a Mortgagor of Real Estate in the District, to the Sheriff or other Officer of which such Writ is directed, to seize or take in execution, sell and convey, (in like manner as any other Real Estate might be seized or taken in execution, sold and conveyed,) all the legal and equitable estate, right, title, interest and property, and the Equity of Redemption of such Mortgagor in any lands and tenements in such District.

The interest of a mortgagor may be taken in execution.

Effect of seizure and of the sale and conveyance to be made under it by the Sheriff: obligations of the purchaser, &c.

Rights of the purchaser.

Purchaser paying mortgage money entitled to a

II. And be it enacted, That the effect of such seizure or taking in execution, sale and conveyance, shall be to transfer to and vest in the purchaser or purchasers, and the heirs and assigns of such purchaser or purchasers, all the legal and equitable estate, right, title, interest and property, and the Equity of Redemption of such Mortgagor, in the lands or tenements so seized or taken in execution, sold and conveyed at the time of placing such Writ in the hands of the Sheriff or other Officer to whom the same is directed as well as at the time of such sale and to give to and vest in such purchaser or purchasers, and the heirs and assigns of such purchaser or purchasers, the same advantages, benefits, rights, privileges and powers as such Mortgagor could or would have had, enjoyed or exercised if such sale had not taken place; and that such purchaser or purchasers of the interest of such Mortgagor, or the heirs or assigns of such purchaser or purchasers may pay, remove or satisfy, or cause or procure to be paid, removed or satisfied any mortgage or mortgages, charge or charges, or lien or liens, which at the time of such sale lawfully or equitably existed upon the lands or tenements so sold, in like manner as such Mortgagor or Mortgagors against whom such Writ of *Fieri Facias* was issued, might, or could pay, remove or satisfy such mortgage or mortgages, charge or charges, or lien or liens; and that upon such payment, removal and satisfaction thereof being effected by such purchaser or purchasers, or the heirs and assigns of such purchaser or purchasers, such purchaser or purchasers and the heirs and assigns of such purchaser or purchasers, shall take, have, hold, possess and enjoy the same estate, right, title, interest, property, benefit and advantage which such Mortgagor or Mortgagors against whom such Writ of *Fieri Facias* was issued, might or would have taken, had, held, possessed and enjoyed in case such payment, removal or satisfaction had been effected by such Mortgagor or Mortgagors, and on payment of the mortgage money to the Mortgagee by the purchaser, the Mortgagee, his heirs, or assigns shall, if required, give to such purchaser or the heirs or assigns of such purchaser, at his or their cost and charges, a certificate

of

of payment or satisfaction of such mortgage or of the performance of the condition of the same, which may be in the form and to the effect of the Schedule to this Act marked A, and which certificate shall be of the like effect, and shall be acted upon by Registers and others, to the same extent as if the same had been given to the Mortgagor, his heirs, executors, administrators or assigns.

certificate of satisfaction, &c.

III. And be it enacted, That any Mortgagee or Mortgagees of the lands and tenements so sold, or of any part thereof, or the heirs or assigns of such Mortgagee or Mortgagees, (being, or not being, Plaintiff or Plaintiffs, Defendant or Defendants in the Judgment whereon the Writ of *Fieri Facias* on which such sale shall take place, was issued) may be the purchaser or purchasers at such sale, and shall and may take, have, hold, possess and enjoy the same estate, title, property, benefits, advantages, rights, privileges and powers as such purchaser or purchasers as any other purchaser or purchasers not interested in the lands or tenements so sold, as Mortgagee or Mortgagees: Provided always, that if the Mortgagee of the said premises shall become the purchaser thereof, he shall, give to the Mortgagor a release of the debt, for the payment of which the mortgage may be given: and if any other person shall become such purchaser, and the Mortgagee shall enforce payment against the Mortgagor of the debt to secure which the mortgage was given, then such purchaser shall be compelled to repay the said debt and interest to the Mortgagor, and in default of such payment, within one calendar month after the same is demanded, the Mortgagor may sue such person in any Court of competent jurisdiction, and recover the amount of such debt and interest, in an action either of debt or assumpsit for money had and received, and until the said debt and interest, if recovered from or paid by the said Mortgagor after such sale, shall be repaid to him, the same shall be a charge upon the premises so mortgaged and sold.

Mortgagee may purchase the lands mortgaged to him.

Proviso: he shall release the mortgage debt.

Provision if any other person be the purchaser.

IV. And be it enacted, That where words occur in this Act, importing the singular number or the masculine gender only, they shall be understood to include more than one person, matter or thing of the same kind, as well as one person, matter or thing, and females as well as males, unless it be otherwise expressly provided; and when it would be consistent and reconcilable with the intent and meaning of this Act, wherever any person is described, it shall be held to apply to such person, his heirs, executors, administrators or assigns; and this Act shall extend to Upper-Canada only: and all other words, terms or phrases shall receive such fair and liberal construction as shall be best adapted to carry out this Act according to its true intent and meaning.

Interpretation clause.

Act to extend only to U. C.

SCHEDULE A

Above referred to.

To the Registrar of the County of

I, A. B. of _____ do certify that C. D. of _____
 who hath become the purchaser of the interest of E. F. of _____
 hath satisfied all money due upon a certain Mortgage made by the said E. F. to me
 bearing date the _____ day of _____, one thousand eight
 hundred _____

hundred and _____, and registered at _____ of the clock in the forenoon, (as the case may be) of the _____ day of _____ in the same year (or as the case may be) and that such Mortgage is therefore discharged,

As witness my hand, this _____ day of _____ 18 _____ (Signed,) A. B.

E. H. of } Witnesses.
G. H. of }

C A P. L X X I V .

An Act requiring Mortgages of Personal Property in Upper-Canada to be filed.

[30th May, 1849.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That every Mortgage or Conveyance intended to operate as a Mortgage of Goods and Chattels made after the passing of this Act, in Upper-Canada, which shall not be accompanied by an immediate delivery and be followed by an actual and continued change of possession of the things mortgaged, shall be absolutely void as against the creditors of the mortgagor, and as against subsequent purchasers and mortgagees in good faith, unless the Mortgage or Conveyance or a true copy thereof, together with an affidavit of a witness thereto sworn before a Commissioner of the Queen's Bench, of the due execution of the Mortgage or Conveyance, or of the due execution of the Mortgage or Conveyance of which the copy to be filed purports to be a copy, shall be filed as directed in the succeeding section of this Act.

Mortgages of personals in Upper-Canada made after the passing of this Act, to be void unless filed as herein directed.

Such Mortgages to be filed in office of Clerk of District Court.

And open to inspection,

Copy of mortgage to be filed again one year after first filing.

II. And be it enacted, That the instruments mentioned in the preceding section shall be filed in the Office of the Clerk of the District Court of the District where the mortgagor therein, if a resident in Upper-Canada, shall reside at the time of the execution thereof, and if not a resident, then in the Office of the Clerk of the District Court of the District where the property so mortgaged shall be at the time of the execution of such instrument; and such Clerks are hereby required to file all such instruments aforesaid presented to them respectively for that purpose, and to endorse thereon the time of receiving the same, and shall deposit the same in their respective Offices to be kept there for the inspection of all persons interested.

III. And be it enacted, That every Mortgage or copy thereof filed in pursuance of this Act, shall cease to be valid as against the creditors of the person making the same or against subsequent purchasers or mortgagees in good faith after the expiration of one year from the filing thereof, unless within thirty days next preceding the expiration of the said term of one year, a true copy of such Mortgage, together with a statement exhibiting the interest of the mortgagee in the property thereby claimed by virtue thereof, shall be again filed in the Office of the Clerk of the said District Court.

IV.

IV. And be it enacted, That a copy of any such original instrument or of any copy thereof so filed as aforesaid, including any statement made in pursuance of this Act, certified by the Clerk in whose Office the same shall be filed, shall be received in evidence, but only of the fact that such instrument or copy and statement was received and filed according to the endorsement of the Clerk thereon and of no other fact; and in all cases the original endorsement by the Clerk made in pursuance of this Act upon such instrument or copy, shall be received in evidence only of the facts stated in such endorsement.

Copies of mortgages filed, with certificate of Clerk, to be evidence of such filing.

V. And be it enacted, That the Clerks of the Courts aforesaid shall respectively number every such instrument or copy which shall be filed in their Offices, and shall enter in books, to be provided by them, alphabetically, the names of all the parties to such instruments, with the number endorsed thereon opposite to each name, which entry shall be repeated alphabetically under the name of every party thereto.

Clerks of the said Courts to number instruments filed with them, &c.

VI. And be it enacted, That this Act shall not apply to Mortgages of vessels registered under the provisions of an Act passed in the eighth year of Her Majesty's Reign, and intituled, *An Act to secure the right of property in British Plantation Vessels navigating the inland waters of this Province, and not registered under the Act of the Imperial Parliament of the United Kingdom, passed in the third and fourth years of the Reign of His late Majesty King William the Fourth, intituled, 'An Act for the registering of British Vessels,' and to facilitate transfers of the same, and to prevent the fraudulent assignment of any property in such Vessels.*

This Act not to apply to mortgage of vessels registered under 3 Vict. c. 5.

VII. And be it enacted, That for services under this Act, the Clerks aforesaid shall be entitled to receive the following fees: for filing each instrument and affidavit, and entering the same in a book as aforesaid, one shilling and three pence; for searching for each paper, six pence; and for copies of any documents filed under this Act, six pence for every hundred words.

Fees allowed to Clerks for registering mortgages.

C A P . L X X V .

An Act to authorize Limited Partnerships in Upper-Canada.

[30th May, 1849.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That after the passing of this Act, Limited Partnerships for the transaction of any mercantile, mechanical or manufacturing business within Upper-Canada, may be formed by two or more persons, upon the terms, with the rights and powers, and subject to the conditions and liabilities hereinafter mentioned; but the provisions of this Act shall not be construed to authorize any such Partnership for the purpose of Banking or making Insurance.

Limited Partnerships may be formed in U. C.

Proviso as to Banking, &c.

Partnerships to consist of General and Special Partners.

II. And be it enacted, That such Partnerships may consist of one or more persons, who shall be called General Partners and who shall be jointly and severally responsible as general partners now are by law, and of one or more persons who shall contribute in actual cash payments, a specific sum as capital to the common stock, who shall be called Special Partners, and who shall not be liable for the debts of the partnership beyond the amount or amounts so contributed by him or them to the capital.

General Partners only shall transact business.

III. And be it enacted, That the general partners only shall be authorized to transact business and sign for the partnership, and to bind the same.

Partners to sign a certificate containing.

IV. And be it enacted, That the persons desirous of forming such partnership shall make and severally sign a Certificate which shall contain--

Name of firm.

First. The name or firm under which such partnership is to be conducted.

Nature of business.

Secondly. The general nature of the business intended to be transacted.

Names of Partners interested.

Thirdly. The names of all the general and special partners interested therein, distinguishing which are general and which are special partners, and their usual places of residence.

Amount of Capital Stock.

Fourthly. The amount of capital stock which each special partner shall have contributed.

Commencement and termination of Partnership.

Fifthly. The period at which the partnership is to commence, and the period at which it will terminate.

Certificate to be in form of Schedule.

V. And be it enacted, That the certificate shall be after the form in the Schedule annexed to this Act, and signed by the several persons forming such partnership, before a Notary Public, who shall duly certify the same.

Certificate to be filed in office of Clerk of the District Court.

VI. And be it enacted, That the certificate so signed and certified, shall be filed in the Office of the Clerk of the District Court of the District in which the principal place of business of the partnership shall be situate, and shall be recorded by him at large in a book to be kept for that purpose open to public inspection.

Partnership not valid until Certificate is filed.

VII. And be it enacted, That no such partnership shall be deemed to have been formed until a Certificate shall have been made, certified, filed and recorded as above directed; and if any false statement be made in such certificate, all the persons interested in such partnership shall be liable for all the engagements thereof, as general partners.

As to false statement.

Renewals of partnerships to be filed.

VIII. And be it enacted, That every renewal or continuance of such partnership beyond the time originally fixed for its duration, shall be certified, filed and recorded in the manner herein required for its original formation; and every such partnership which shall be otherwise renewed or continued, shall be deemed a general partnership.

Penalty for default.

IX. And be it enacted, That every alteration which shall be made in the names of the partners, in the nature of the business, or in the capital or shares thereof, or in any other matter specified in the original certificate, shall be deemed a dissolution of the partnership, and every such partnership which shall in any manner be carried on after any such alteration shall have been made, shall be deemed a general partnership, unless renewed as a special partnership, according to the provisions of the next preceding section.

Alteration of names of partners, &c., to be considered a dissolution of partnership.

X. And be it enacted, That the business of the partnership shall be conducted under a name or firm in which the names of the general partners, or some or one of them, shall only be used: and if the name of any special partner shall be used in such firm with his privity, he shall be deemed a general partner.

Business to be conducted under name of general Partners.

XI. And be it enacted, That suits in relation to the business of the partnership may be brought and conducted by and against the general partners in the same manner as if there were no special partners.

Suits how to be brought.

XII. And be it enacted, That no part of the sum which any special partner shall have contributed to the capital stock shall be withdrawn by him, or paid or transferred to him in the shape of dividends, profits or otherwise, at any time during the continuance of the partnership; but any partner may annually receive lawful interest on the sum so contributed by him, if the payment of such interest shall not reduce the original amount of such capital; and if after the payment of such interest, any profits shall remain to be divided, he may also receive his portion of such profits.

No part of sum contributed by Special Partner shall be withdrawn by him.

XIII. And be it enacted, That if it shall appear that by the payment of interest or profits to any special partner the original capital has been reduced, the partner receiving the same shall be bound to restore the amount necessary to make good his share of capital, with interest.

Provision if the original capital be reduced.

XIV. And be it enacted, That a special partner may from time to time examine into the state and progress of the partnership concerns, and may advise as to their management; but he shall not transact any business on account of the partnership, nor be employed for that purpose as Agent, Attorney or otherwise; and if he shall interfere, contrary to these provisions, he shall be deemed a general partner.

Special Partners may examine into Partnership concerns.

XV. And be it enacted, That the general partners shall be liable to account to each other and to the special partners for their management of the concern, both in law and equity, as other partners now are by law.

General Partners to account to each other and to Special Partners.

XVI. And be it enacted, That in case of the insolvency or bankruptcy of the partnership, no special partner shall under any circumstances be allowed to claim as a creditor until the claims of all the other creditors of the partnership shall be satisfied.

Other Creditors of Bankrupt partnership to be first satisfied.

XVII. And be it enacted, that no dissolution of such partnership by the acts of the parties shall take place previous to the time specified in the Certificate of its formation or in the Certificate of its renewal, until a notice of such dissolution shall have been filed in the office in which the original Certificate was recorded, and published once in each week for three weeks, in a newspaper published in the District where the partnership

No dissolution to take place, until notified in the Canada Gazette, &c.

partnership may have its principal place of business, and for the same time in the *Canada Gazette*.

Fee to the
Clerk on filing
certificate.

XVIII. And be it enacted, That the Clerk of the District Court shall be entitled to have and receive for filing any such Certificate or any renewal thereof, and for recording the same, the sum of Two shillings and six pence.

SCHEDULE

(*Referred to in the foregoing Act, and Form of Certificate.*)

We, the undersigned, do hereby certify that we have entered into co-partnership under the style or firm of (*B. D. & Co.*) as (*Grocers and Commission Merchants*), which firm consists of (*A. B.*) residing usually at _____ and (*C. D.*) residing usually at _____ as general partners: and (*E. F.*) residing usually at _____ and (*G. H.*) residing usually at _____ as special partners. The said (*E. F.*) having contributed (£1,000) and the said (*G. H.*) (£2000,) to the Capital Stock of the said partnership. Which said co-partnership commences on the _____ day of _____ (*Anno Domini one thousand eight hundred and forty-nine,*) and terminates on the _____ day of _____ (*Anno Domini one thousand eight hundred and fifty-two*).

Dated this _____ day of _____
eight hundred and forty-eight.)

(*Anno Domini one thousand*

(Signed,)

A. B.
C. D.
E. F.
G. H.

Signed in the presence of me, }
L. M., }
Notary Public. }

CAP. LXXVI.

An Act to regulate the Rates of Damages on Protested Bills of Exchange in Upper-Canada.

[30th May, 1849.]

Preamble.

WHEREAS it is expedient for the purposes of Commerce that the law regulating the Rates of Damages on Protested Bills of Exchange in Upper-Canada should be better defined: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada,*

Canada, and for the Government of Canada, and it is hereby enacted by the authority of the same, That from and after the passing of this Act, the Rate of Damages to be allowed and paid upon the usual protest for non-payment of Bills of Exchange drawn, sold or negotiated within Upper-Canada, and although the same may not have been drawn on or by any person residing therein, shall in the following cases be as follows:

What shall be the rate of damages for non-payment of Bills.

First. If such Bill shall have been drawn upon any person or persons at any place in Europe or in the West Indies, or in any part of America not within this Province or any other British North American Colony, and not within the Territory of the United States, ten per cent. upon the principal sum specified in such Bill.

Drawn on Europe or West Indies, &c.

Secondly. If such Bill shall have been drawn upon any person or persons in any of the other British North American Colonies, or in the United States, four per cent. upon the principal sum specified in such Bill; and in each and every of the foregoing cases, such Bill shall also be subject to six per centum per annum of interest on the amount for which the Bill is drawn, to be reckoned from the day of the date of the protest to the time of repayment, which amount shall be reimbursed to the holder at the current rate of Exchange of the day when the protest for non-payment shall be produced and repayment demanded, that is to say: the holder of any such Bill returned under protest for non-payment, shall be entitled to demand and recover from the drawer or endorsers thereof, so much current money of this Province as shall then be equal to the purchase of another Bill of the like amount, drawn on the same place, at the same date or sight, together with the damages and interest above mentioned, as also the expenses of noting and protesting the Bill, and all other charges and postages incurred thereon.

On other B. N. A. Colonies or U. S.

Interest to be also allowed.

By whom payable, and at what rate of exchange.

II. And be it enacted, That damages at the rate of four per cent. upon the principal sum specified therein, shall be allowed and paid upon the protest of every promissory note made or negotiated within Upper-Canada, and payable only at some place in the United States of America, or in any of the British North American Colonies except Canada, and not otherwise or elsewhere, and that such principal sum together with interest thereon at the rate of six per centum per annum, to be reckoned from the day of the date of the protest shall be reimbursed to the holder at the current rate of exchange of the day when the protest shall be produced and repayment demanded, that is to say: the holder of any such note returned under protest, shall be entitled to demand and recover from the maker or endorsers thereof so much current money of this Province as shall then be equal to the purchase of a Bill of Exchange of the like amount drawn on the same place at the same date or sight, together with the damages and interest above mentioned, and also the expense of protesting the note, and all charges and postages incurred thereon.

Damages and interest allowed for non-payment of promissory notes in certain cases.

III. And be it enacted, That when the protest of a bill or note returned for non-payment shall, by the holder thereof, be notified to the drawer, maker or endorser in person, or in writing delivered to a grown person at his or their counting house or dwelling house, and they disagree about the then rate of Exchange for Commercial Bills, the holder and the drawer, maker or endorser so notified, or any one of them, may apply to the President or in his absence the Secretary of any Board of Trade or Chamber of Commerce in the City or Town, in which the holder of such protested bill or note, or his Agent may reside or in the City or Town nearest to the residence of such Holder or

How the rate of exchange shall be ascertained in case of dispute.

Agent,

Agent, and obtain from such President or Secretary a certificate in writing under his hand, stating the said rate of exchange, and the rate stated in such certificate shall be final and conclusive as to the then rate of exchange, and regulate the sum to be paid accordingly.

Inland Bills or Notes to bear interest after protest.

IV. And be it enacted, That all Bills, Drafts or Orders drawn by persons in Upper-Canada, on persons in this Province, or Promissory Notes made or negotiated in Upper-Canada, if protested for non-payment, shall be subject to six per centum per annum of interest from the date of the protest, or if interest be therein expressed as payable from a particular period, then from such period to the time of payment; and that in such cases of protest the expense of noting and protesting, and the postages thereby incurred, shall be allowed and paid to the holder, over and above the said interest.

Damages, &c., may be recovered though not especially mentioned in the declaration

V. And be it enacted, That in any action brought to recover the amount of any Bill, Draft, Order or Promissory Note, and the damages herein allowed, and the interest, expenses of noting and protesting, and all other charges and postages incurred thereon, specified and mentioned in the preceding sections of this Act, it shall not be necessary to declare specially for such damages, expenses, charges and interest, but the same shall be allowed to the plaintiff at any trial, assessment or computation, as if the same had been specially declared for.

Part of Act of U. C. 51 G. 3, c. 9, repealed.

VI. And be it enacted, That from and after the passing of this Act, the second, third, fourth and fifth Sections of the Act of the Legislature of the late Province of Upper-Canada, passed in the fifty-first year of the Reign of King George the Third, and intituled, *An Act to repeal an Ordinance of the Province of Quebec, passed in the seventeenth year of His Majesty's Reign, intituled, An Ordinance for ascertaining damages on Protested Bills of Exchange, and fixing the rate of interest in the Province of Quebec: Also to ascertain damages on Protested Bills of Exchange, and fixing the rate of interest in this Province,*—be, and the same are hereby repealed.

C A P. LXXVII.

An Act to authorize the Judges of the Superior Courts of Record in Upper-Canada to appoint Commissioners for taking Affidavits in Lower-Canada.

[30th May, 1849.]

Preamble.

WHEREAS it is desirable that the Judges of the Superior Courts of Record in Upper-Canada, should have power to appoint Commissioners for taking Affidavits in Lower-Canada: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada,* and it is hereby enacted by the authority of the same, That it shall and may be lawful for the Chief Justice and any one of the Justices of the Court of Queen's Bench in Upper-Canada for

Commissioners may be appointed in

for the time being, or in the event of the death or absence from the Province of the Chief Justice for the time being, for any two of the Justices of the said Court for the time being, by one or more commission or commissions under the seal of the said Court, from time to time to empower what and as many persons as they shall think fit and necessary in Lower-Canada, to take and receive all and every such affidavit or affidavits as any person or persons shall be willing and desirous to make before any of the persons so empowered, in or concerning any cause, matter or thing depending, or hereafter to be depending, or in any wise concerning any of the proceedings to be had in the said Court of Queen's Bench, or in any other Court of Law of Record in Upper-Canada; which said affidavits taken as aforesaid shall be filed in the Office of the said Courts respectively, and there be read and made use of in the said Courts respectively, to all intents and purposes as other affidavits taken in the said Courts respectively ought to be; and that all and every affidavit and affidavits taken as aforesaid, shall be of the same force as affidavits taken in the said Courts respectively shall and may be.

L. C. for receiving affidavits to be used in the Court of Q. B. in Upper-Canada.

Effect of affidavits taken before such commissioners.

II. And be it enacted, That proof of the execution of any deed, will or probate thereof or memorial of the same in Lower-Canada, may be made before any of the Commissioners to be appointed under the authority of this Act, in the same manner as such proof may now by law be made before the Chief Justice or Judge of any Court of Queen's Bench in Lower-Canada, and all Registers of Counties in Upper-Canada shall enregister such deeds, wills, probates and memorials upon the execution thereof being so proven.

Proof of execution of deeds, &c., may be made before such commissioners.

III. And be it enacted, That the Chief Justice and Justices of the Court of Common Pleas in Upper-Canada shall have the same power and authority to appoint such Commissioners as are hereby given to the Chief Justice and Justices of the Court of Queen's Bench and the Commissioners to be so appointed by the said Chief Justice and other Justices of the Court of Common Pleas shall have the same power and authority, and the affidavits made before them shall have the same force and effect in all respects, as those made before any of the Commissioners to be appointed by the said Chief Justice and other Justices of the Court of Queen's Bench.

Commissioners may in like manner be appointed for the Court of Common Pleas.

Their powers.

IV. And be it enacted, That all and every person or persons forswearing him, her or themselves in any affidavit or affidavits to be made before any of the said Commissioners appointed or to be appointed under the authority of this Act, shall incur and be liable unto the same pains and penalties as if such affidavit or affidavits had been made and taken in open Court.

Punishment of persons swearing falsely.

CAP. LXXVIII.

An Act for abolishing the Territorial Division of Upper-Canada into Districts, and for providing for temporary Unions of Counties for Judicial and other purposes, and for the future dissolutions of such Unions, as the increase of wealth and population may require.

[30th May 1849.]

WHEREAS by reason of the subdivision of Districts in that part of this Province called Upper-Canada, the boundaries thereof have, in many cases, become identical with the boundaries of Counties, and there being no longer any sufficient reason

Preamble.

reason for continuing such territorial division in that part of the Province, it is expedient to abolish the same, and, following in this particular the Mother Country, to retain only the name of County as a territorial division for judicial as well as all other purposes, providing at the same time for temporary Unions of Counties for judicial and other purposes, and the future dissolution of such Unions as the increase of wealth and population may from time to time require: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That this Act shall come into and be in operation upon, from and after the first day of January, in the year of our Lord, one thousand eight hundred and fifty.

Commence-
ment of this
Act.

I. ABOLITION OF DISTRICT DIVISIONS.

II. And be it enacted, That the division of that part of this Province called Upper Canada, into Districts for judicial and other purposes, shall be and the same is hereby abolished.

Districts
abolished.

III. And be it enacted, That the Courts, Court Houses and Gaols, heretofore called District Courts, Court Houses and Gaols, shall from henceforth be called County Courts, Court Houses and Gaols, and the District Grammar Schools, County Grammar Schools, and all and singular the Offices and Officers now appertaining to the said Districts shall henceforth belong and appertain to the said Counties respectively, and whenever the said Offices or Officers have the title or denomination of Offices or Officers, of or for the District, they shall henceforth have the title or denomination of Offices or Officers of or for the County; and all laws at present in force, or during the present Session of Parliament made or to be made applicable to the said division of territory by the name of Districts, or the Courts, Offices or other Institutions thereof, shall be applied to and have the same operation and effect upon the said Counties and their respective Courts, Offices and other Institutions, as Counties.

District
Courts, &c., to
become County
Courts, &c.

Laws applica-
ble to Districts
to apply to
Counties.

IV. And be it enacted, That the Courts of Assize and Nisi Prius, and Oyer and Terminer, Gaol Delivery, Sessions of the Peace and District Courts, shall be held in and for the said Counties, as such Courts are now held for the different districts in Upper-Canada, and that the name County shall be used in designating such Courts, and also in all legal proceedings where the name District is now, or by any Act passed or to be passed during the present Session of Parliament, shall be used.

Courts of As-
size, &c., to be
held in and for
Counties.

II. UNIONS OF COUNTIES FOR JUDICIAL AND OTHER PURPOSES.

V. And be it enacted, That the Counties mentioned in the Schedule to this Act annexed, marked A, shall, for all judicial and municipal purposes, and for all other purposes whatsoever, except for the purpose of Representation in the Provincial Parliament, and that of the Registration of Titles, be formed into Unions as in the said Schedule particularly set forth, and each of such Unions under the name of the United Counties of _____ and _____ (*naming them*) shall for all such purposes

Certain Coun-
ties to be uni-
ted for purpo-
ses other than
Representation
and Registra-
tion of Titles,
to have Courts,

purposes (except as before excepted) have all Courts, Offices and Institutions established by law and now pertaining to Districts, or which by any Act passed or to be passed during the present or any future Session of Parliament, shall or may be established for Counties, in common between them, so long as such Counties shall remain so united as herein provided.

&c., in common.

VI. And be it enacted, That the County property of all such United Counties shall, so long as such Counties remain united, be the common property of such United Counties, in whichever of such Counties the same may be situated.

As to property of United Counties.

VII. And be it enacted, That in laying the Venue in any judicial proceeding in which the same may be necessary in any County which may be so united to any other County, or Counties as hereinbefore provided, the same shall be laid in such County by name describing it, as one of the United Counties of and (*naming them*), and for the trial of any issue, or for the assessment of damages, in the course of any such judicial proceeding, when such issue shall be tried or such damages assessed by Jury, the Jury shall be summoned from the body of the United Counties, as if the same were one County.

Mode of describing any United County in laying a Venue.

VIII. And be it enacted, That during the continuance of any such Unions of Counties, all Laws now existing and applicable to Districts, and all Laws hereafter to be made, whether during the present or any future Session of Parliament, and applicable to Counties generally in relation to any matter whatsoever, except only Representation in the Provincial Parliament, and Registration of Titles, shall, to all intents and purposes whatsoever, apply to every such Union of Counties, as if such Union formed but one County.

Laws relative to Districts to apply to Unions of Counties.

III. DISSOLUTION OF UNIONS OF COUNTIES.

IX. And be it enacted, That in all the Unions of Counties provided for by the fifth Section of this Act, the County within the limits of which the Court House and Gaol, heretofore the District Court House and Gaol shall be situated, shall be deemed the Senior County of such Union, and the other County or Counties, the Junior County or Counties thereof.

Which shall be called the Senior County.

X. And be it enacted, That so soon as by the census taken according to any Act of Parliament now in force, or hereafter to be in force, for taking a census of the inhabitants of this Province, or of that part of it called Upper-Canada, it shall appear that any Junior County of any such Union of Counties, as is provided for by the said fifth Section of this Act, contains a population of not less than fifteen thousand souls, it shall and may be lawful for the Governor of this Province, by an Order in Council, upon the Petition of two-thirds or more of the Townreeves for the time being of such Junior County, if he shall deem the circumstances of such Junior County such as to call for a separate establishment of Courts, and other County Institutions, to issue a Proclamation under the Great Seal of this Province setting forth the same, naming a place within such Junior County for a County Town, and erecting the Townreeves for such Junior County, then elected or thereafter to be elected for the same, into a Provisional Municipal Council for such Junior County, and declaring such Municipal Council a Provisional Municipal Council, under the authority

Townreeves of a Junior County may be made the Provisional Council of the County, provided certain conditions be complied with.

Proviso: Petition must be adopted by two thirds of the Townreeves after being adopted at two yearly meetings.

Of whom the Provisional Council shall consist.

Provisional Council may purchase property for Court Houses and Gaols, and raise money for that purpose.

Proviso as to powers of the Council of the Union.

Provisional Officers may be appointed for such purpose.

Provisional Council to be a Corporation.

How moneys directed to be raised shall be levied, &c.

authority of this Act, until the dissolution of such Union of Counties as provided for by this Act : Provided always, nevertheless, firstly, that no such petition shall be presented or acted upon, unless adopted and signed by such two-thirds, in the month of February after their election or appointment, nor until a resolution declaratory of the expediency of presenting such petition shall have been adopted by a majority of such Townreeves for the time being, present at two several meetings to be called for that purpose, by a majority of such Townreeves for the time being, the one to be held some time in the month of February, in the year next but one preceding that in which such petition shall have been so adopted and signed, and the other in the month of February in the year next preceding such last mentioned year : Provided also, secondly, that every such Provisional Municipal Council shall, from time to time, and at all times during its continuance as such, consist of the Townreeves for the several Townships, Villages and Towns in such Junior County.

XI. And be it enacted, That every Provisional Municipal Council erected by Proclamation as aforesaid, shall have all the powers in, over, and with respect to such Junior County as are now by Law vested, or as hereafter may by Law be vested in the different Municipal Councils in Upper-Canada, so far as the same shall or may be requisite, for the purchase or procuring of the necessary property on which to erect a Court House and Gaol,—for the erection of such Court House and Gaol,—and for raising, levying and collecting the necessary moneys to defray the expenses of the same, and for remunerating the Provisional Officers employed or to be employed in or about the same : Provided always, that nothing herein contained shall extend or be construed to extend in any way to interfere with the powers of the Municipal Council of such Union, but all moneys to be raised by such Provisional Municipal Council as aforesaid, shall be independent of, and in addition to, any moneys that may be directed to be raised by the Municipal Council of such Union, under the powers in them vested or to be vested by Law.

XII. And be it enacted, That every such Provisional Municipal Council shall have power in their discretion to appoint a Provisional Warden, a Provisional Treasurer, and such other Provisional Officers for such County as they may deem necessary for the purchase or procuring of such property,—the erection of such Court House and Gaol—the safe keeping of such moneys,—and the protection and preservation of such property when thus acquired ; which Provisional Warden, Treasurer and other Provisional Officers shall hold their offices during the pleasure of such Provisional Municipal Council.

XIII. And be it enacted, That every such Provisional Municipal Council shall be a Body Corporate by the name of the Provisional Municipal Council of the County of *(naming it,)* and as such, shall have all Corporate powers necessary for the purpose of carrying into effect the object of their erection into such Provisional Municipal Council as herein provided, and none other.

XIV. And be it enacted, That all moneys directed to be assessed, levied and collected upon such Junior County by any By-Law of such Provisional Municipal Council, shall be assessed, levied and collected by the same persons and in the same manner as the moneys directed to be assessed, levied and collected by the Municipal Council of the Union to which such County shall belong, and shall be paid over by the Collector thereof to the Provisional Treasurer of such Junior County in the like manner as other

other moneys are payable over to the Treasurer of such Union: Provided always, firstly, that every Collector of such moneys shall be entitled to deduct and apply to his own use, for the trouble and responsibility of such collection, a sum equal to two and a half per centum upon the moneys paid over by him to such Provisional Treasurer as aforesaid, and no more: Provided also, secondly, that the moneys so collected shall in law and equity be deemed and taken to be moneys collected for such Union, so far as to charge every such Collector with the same, and to render him and his sureties responsible to such Union for such moneys: And provided also, thirdly, that all such moneys recovered or received by any such Union from any such Collector or his sureties, shall, after deducting the expenses of collection, be accounted for to such Junior County, and paid over to the Provisional or other Treasurer thereof, so soon as the same shall be received.

Proviso: per centage to Collector.

Proviso: Collectors liable as for moneys of the Union.

Moneys to be accounted for to Junior County.

XV. And be it enacted, That so soon as any such Provisional Municipal Council for any such Junior County as aforesaid, shall have purchased or procured the necessary property, at the County Town of such County, and erected thereon suitable buildings for the purposes of a Court House and Gaol, adapted to the wants of such County, and in conformity with any statutory, or other rules or regulations in force respecting such buildings generally in Upper-Canada, it shall and may be lawful for such Provisional Municipal Council to enter into an agreement with the Municipal Council of the Union to which such Junior County shall belong, for the adjustment and settlement of the proportion, if any, of any debt due by such Union, and which it may be just that such Junior County, on its being disunited from such Union, should take upon itself, with the time or times of payment thereof; and every such agreement, so entered into, shall, both in law and equity, be and continue to be binding upon such Junior County, and upon the County or Counties from which it shall be disunited: Provided always, firstly, that none of the Members of the Municipal Council of such Union, who shall also be Members of the Provisional Municipal Council of such Junior County, shall take any part or give any vote in the Municipal Council of such Union, on any question or matter touching or concerning such agreement or any proposal connected with the same: Provided also, secondly, that in default of the said Municipal Councils entering into any such agreement, the proportion of such debt, to be assumed by such Junior County, shall be settled by the award of three Arbitrators, or the majority of them, to be appointed so soon as such property shall have been purchased or procured, and such Court House and Gaol erected, as follows, that is to say, one by the Municipal Council of such Senior County or Union of Counties, and the other by the Provisional Municipal Council of such Junior County, and the third by such two Arbitrators thus appointed: or in the event of such two Arbitrators omitting to appoint such third Arbitrator within ten days next after their own appointment, then by the Governor of this Province in Council: Provided also, thirdly, that in case either such Municipal Council or such Provisional Municipal Council, shall omit for one calendar month after they shall have been called upon for that purpose by the other of such Councils, to appoint an Arbitrator on their part as above provided, it shall and may be lawful for the Governor in Council to appoint an Arbitrator on the part and behalf of such Municipal Council or Provisional Municipal Council so neglecting or omitting to appoint such Arbitrator, who shall, in such case, have all the same powers as if he had been appointed by such Municipal Council, or Provisional Municipal Council, as the case may be: And provided also, fourthly, that every such submission and award shall be subject to the jurisdiction of Her Majesty's Court of Queen's Bench for Upper-Canada, in like manner as if the same were by bond with an agreement

Junior County and Union to make agreement as to debt.

Who may vote as to such agreement.

Arbitration for default of agreement.

Third Arbitrator how appointed.

Proviso: Governor in Council to appoint an Arbitrator in default of either Council.

Award to be subject to jurisdiction of Queen's Bench.

Settled portion as due by Junior County to bear interest, and be provided for as other debts.

agreement therein, that such submission might be made a Rule of that Court: And provided also, fifthly, that the portion, if any, of such debt so agreed upon or settled, shall be a debt due from such Junior County to the County or Counties from which it shall have been disunited, and shall bear legal interest from the day on which the Union shall be actually dissolved, as hereinafter provided: and its payment shall be provided for by the Municipal Council of such Junior County, after the dissolution of such Union, in like manner as is or shall be required by law, with respect to other debts due by such Municipal Council, in common with others, and in default thereof, may be sued for and recovered as any of such other debts.

Assessments for the year of separation to belong to the Union.

XVI. And be it enacted, That all assessments imposed by the Municipal Council of any such Union, for the Calendar year in which any Proclamation for disuniting any Junior County from such Union shall issue, as hereinafter mentioned, shall belong to such Union, and shall be collected, accounted for, and paid over accordingly.

Appointment of Sheriff, Judges, Justices, &c., in the Junior County after separation.

XVII. And be it enacted, That so soon as may be after such Provisional Municipal Council shall make it appear, to the satisfaction of the Governor of this Province in Council, that such property has been purchased or procured, and such Court House and Gaol erected, and the proportion of the said debt (if any) to be assumed by such Junior County shall have been adjusted or settled as aforesaid, a Judge, a Surrogate, a Sheriff, at least one Coroner, a Clerk of the Peace, and, at least, twelve Justices of the Peace, shall be appointed for such Junior County, with a proviso in the Commissions appointing them respectively, that such Commissions respectively shall not take effect or be in force until the day on which such Counties shall be disunited, as hereinafter provided: Provided always, nevertheless, that the sureties to be given by such Sheriff, as required by the Act of the Parliament of the late Province of Upper-Canada, passed in the third year of the Reign of His late Majesty King William the Fourth, numbered chapter eight, and intituled, *An Act to make certain regulations relating to the office of Sheriff in this Province, and to require the several Sheriffs of this Province to give security for the due fulfilment of the duties of their office*, and the affidavit of his qualification in respect of property required by the same Act, shall not be required to be entered into, made, or given, by any such Sheriff so appointed, within the time specified in that Act, but shall be entered into, and made and given within the first six calendar months next after the Commission of such Sheriff shall take effect as aforesaid, and in default of the same being duly entered into, made and given, within such six months, such Sheriff shall, *ipso facto*, forfeit his office.

Proviso as to the security to be given by the Sheriff under Act of U. C. 3. W. 4. c. 8.

On 1st January next after the end of two months from the date of a Proclamation to be issued in that behalf, the Union shall be dissolved, &c.

XVIII. And be it enacted, That so soon as such appointments shall be so made as aforesaid, it shall and may be lawful for the Governor of this Province in Council, by Proclamation under the Great Seal thereof, to declare such Junior County disunited from such Union, upon, from and after the first day of January which shall occur next after three calendar months after the *teste* of such Proclamation, and such Junior County shall, upon, from and after such first day of January, to be so named in the said Proclamation, as aforesaid, be, to all intents and purposes whatsoever, disunited from such Union, and if such Union shall have consisted of only two Counties, such Union shall, upon, from and after such first day of January, be absolutely dissolved; and if of more than two Counties, the remaining Counties shall remain united, and thereupon the said Provisional Municipal Council of such Junior County shall, upon, from and after such day, lapse and be absolutely dissolved, and none of the Courts or Officers of the Senior County,

As to remaining Counties if the Union was of more than two.

County, or of the Union, shall, as such, have any jurisdiction or authority whatsoever in or over the said County so disunited from such Union as aforesaid; any thing in their respective Commissions, or in any Act of Parliament, either of this Province or the late Province of Upper-Canada, to the contrary notwithstanding.

XIX. And be it enacted, That upon the disuniting any such Junior County from any such Union, there shall be a separate Registry of Titles for such County as for other Counties generally in Upper-Canada.

Separate Registry of deeds for Junior Counties.

XX. And be it enacted, That upon the disuniting any such Junior County from any such Union, all the Public Property of such Union not situate, lying and being within such Junior County, shall, *ipso facto*, become the sole property of, and be thereupon vested in the remaining County or Counties of such Union, and all the public property of such Union situate, lying and being within the limits of such Junior County, shall, *ipso facto*, become the sole property of and be thereupon vested in such Junior County.

Property of the Union in either County to become the property of that County.

XXI. And be it enacted, That all Actions, Informations and Indictments, pending at the time so appointed by Proclamation for the disuniting such Junior County from such Union, shall be tried in the Senior County, unless by order of the Court in which the same shall be pending in Term time, or of some Judge thereof in vacation, the Venue therein shall be changed to the Junior County, which change every such Court or Judge is hereby authorized to grant and direct, either on the consent of parties, or in their or his discretion, on hearing such parties to the point by affidavit or otherwise.

Provisions as to actions, &c., pending at the dissolution of any Union.

XXII. And be it enacted, That upon any such change of Venue, the records and papers of every such Action, Information and Indictment shall, when necessary, be transmitted to the proper Offices of such Junior County.

Proceedings if the Venue be changed.

XXIII. And be it enacted, That all and every the Rules and Regulations, provisions matters and things contained in any Act or Acts of the Parliament of this Province, or of the Parliament of the late Province of Upper-Canada, for the Regulation of or relating to Court Houses and Gaols, or either of them, which shall be in force and operation at the time so appointed by Proclamation for disuniting such Junior County from such Union as aforesaid, shall be and are hereby extended to the Court House and Gaol of such County so disunited as aforesaid, and the said Courts of Assize, Nisi Prius, Oyer and Terminer, Gaol Delivery, Sessions of the Peace, County, Surrogate, and every other Court of the said Junior County required to be held at a certain place, shall be commenced, and from time to time holden at the Court House so erected and declared to be the Court House of such County by such Proclamation as aforesaid, or any other that may be lawfully substituted for the same.

Laws applicable to Gaols and Court Houses to become applicable to those in the Junior County, &c.

XXIV. And whereas the Counties mentioned in the Schedule to this Act annexed marked C. comprehend one area of territory for some purposes, and another and different area for other purposes: And whereas such diversities are inconvenient and should be discontinued—Be it enacted, That the several Counties mentioned in the said Schedule marked C, shall, as well for the purposes of Representation, and the Registration of Titles, as for Judicial, Municipal, and all other purposes whatsoever, consist of and include the Townships and places mentioned as lying therein, the said

Certain Counties to consist of all the Townships within their area for all purposes.

Schedule

Schedule C, and such other Townships and places as from time to time may hereafter be attached thereto according to Law.

Oneida and Seneca attached to Wentworth for certain purposes.

XXV. And be it enacted, That for judicial purposes only, the Townships of Oneida and Seneca shall remain attached to and form part of the County of Wentworth so long as the County of Haldimand shall remain united to the County of Lincoln, and no longer.

Rainham and Walpole attached to Norfolk for certain purposes.

XXVI. And be it enacted, That for judicial purposes only, the Townships of Rainham and Walpole shall remain attached to and form part of the County of Norfolk so long as the County of Haldimand shall remain united to the County of Lincoln, and no longer.

How certain Counties are to be formed for all purposes.

XXVII. And be it enacted, That the several Counties in Upper-Canada not mentioned in the Schedule to this Act annexed marked C, shall, as well for the purpose of Representation and the Registration of Titles, as for Judicial, Municipal and all other purposes whatsoever, consist of and include the several Townships, Villages, Towns and places of which, for the purpose of Representation, such Counties are now by Law declared to consist, and such other Townships and Places as from time to time may hereafter be attached thereto according to Law: Provided always nevertheless, that nothing in this Section contained shall interfere, or be construed to interfere, with the union of certain of such Counties for the purposes of Representation in Parliament as hereinafter mentioned.

Proviso.

How Cities are to be formed for purposes of Representation.

XXVIII. And be it enacted, That for the purposes of Representation in the Provincial Parliament, the City of Toronto and the Liberties thereof shall form no part of the County of York; the City of Kingston and the Liberties thereof, no part of the County of Frontenac; and the City of Hamilton and the Liberties thereof, no part of the County of Wentworth; and the Towns of Niagara, Cornwall, Brockville, London and Bytown, no part of the respective Counties of Lincoln, Stormont, Leeds, Middlesex, or Carleton, within the bounds of which such Towns are respectively situated.

Toronto, Kingston and Hamilton, united to their counties for Judicial purposes.

Exceptions.

XXIX. And be it enacted, That the Cities of Toronto, Kingston and Hamilton, with their respective Liberties, shall for all Judicial purposes, except as hereinafter excepted, be united to the following Counties respectively, that is to say: the said City of Toronto and the Liberties thereof to the County of York; the said City of Kingston and the Liberties thereof to the County of Frontenac; and the said City of Hamilton and the Liberties thereof to the County of Wentworth; excepting always nevertheless, as respects such Cities and the Liberties thereof, such Judicial Powers and Provisions as are comprehended in the respective Legislative Charters of such Cities respectively, or such powers and provisions as may be so comprehended in any Act or Acts for amending those Charters or any of them, or in any general Act for that purpose applicable to the whole of such Cities in general, or in any other Act or Acts applicable to them, or any of them in particular.

IV. MISCELLANEOUS AND TEMPORARY PROVISIONS.

Provision as to the united

XXX. And be it enacted, That the Townreeves of the different Townships, Unions of Townships, Villages and Towns in the Counties of Kent and Lambton, shall form a Provisional

Provisional Municipal Council for such Counties as United Counties, and such Provisional Municipal Council shall, with respect to such Counties, have, possess and exercise all and singular the rights, powers, privileges and duties hereby conferred, granted or imposed upon Provisional Municipal Councils generally, erected by Proclamation under the authority of this Act, and also all such powers as by an Act of the Parliament of this Province, passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, intituled, *An Act to divide the Western District of the Province of Canada, and for other purposes therein mentioned*, were conferred upon the Township Councillors of the different Townships of the said Counties; and such Provisional Municipal Council shall be charged with and liable to any debt that may have been contracted by competent authority on behalf of the District by that Act intended to be erected; and the Municipal Corporation of such United Counties, both Provisional and Permanent, shall and they are hereby required to provide for the payment of every such debt, and in default of their doing so, the same shall and may be sued for, recovered and levied by rate or otherwise, as in the case of debts of any other Municipal Corporation in Upper-Canada.

Counties of
Lambton and
Kent.

Act 10 & 11
V. c. 39.

XXXI. And be it enacted, That so soon as the Court House and Gaol, now in course of being erected under the authority of the said Act of Parliament last mentioned, shall have been completed, according to the provisions of the said Act, and the other provisions of the fifteenth Section of this Act, shall have been complied with by the said United Counties of Kent and Lambton, it shall and may be lawful for the Governor of this Province in Council to issue a Proclamation, dissolving the Union between the said United Counties of Kent and Lambton and the County of Essex, and from thenceforth the said United Counties of Kent and Lambton shall form a Union of Counties, and all the provisions of this Act applicable to Unions of Counties in general shall be applicable to such Union to all intents and purposes, as if such United Counties were set forth as such in the Schedule to this Act annexed marked A.

Further provision in regard
to the United
Counties of
Kent and
Lambton.

XXXII. And be it enacted, That all actions, informations, indictments, inquisitions and other proceedings, of what nature or kind soever, whether of a judicial or any other character, now pending in the several Districts in Upper-Canada, shall from henceforth be deemed and taken to all intents and purposes whatsoever, to be pending in the Counties or Unions of Counties, to which they are respectively transferred, as respectively set forth in the Schedule to this Act annexed marked B, as if the same had been originally instituted and proceeded with in such Counties or Unions of Counties respectively, and the different Courts, Officers and other Authorities in which or before whom the same shall be respectively pending, shall take such order respecting the same as may be necessary or expedient for the proper disposition of the same, according to law, without prejudice to the parties interested or affected, or any of them, from the abolition of such Division into Districts, and the establishment of a Division into Counties in lieu thereof, as herein provided.

Provision as to
pending actions and other
proceedings in
the present
Districts.

XXXIII. And whereas divers of the inhabitants of each of the two Counties of Haldimand and Welland, the Junior Counties of the United Counties of Lincoln, Haldimand and Welland, have petitioned Parliament to be set apart for judicial and other purposes, and the sense of the said two Counties respectively being in favour of such separation, and their wealth and population being sufficient to entitle them to the same, according to the provisions of this Act, for the dissolution of such Unions, it

Recital.

appears

appears expedient that provision should be at once made for enabling such two Counties, or either of them, to procure such separation so soon as they shall have made the necessary preparations for that purpose: Be it therefore enacted, That the Townreeves of the different Townships, Unions of Townships, Villages and Towns in each of the said two Counties of Haldimand and Welland, shall form a Provisional Municipal Council for each of such Counties respectively; And each of such Provisional Municipal Councils shall, with respect to their respective Counties, have, possess and exercise all and singular the rights, powers, privileges and duties hereby conferred, granted or imposed upon Provisional Municipal Councils generally erected by Proclamation, under the authority of this Act, and each of such Provisional Municipal Councils shall and may, so soon as they shall think fit so to do, proceed to determine the place in such County for the County Town thereof, and to purchase the necessary property thereat, and to erect the necessary public buildings upon such property.

Townreeves in each of the counties of Haldimand and Welland to be a Provisional Council, &c.

Provision respecting the Union of the counties of Lincoln, Haldimand and Welland.

XXXIV. And be it enacted, That so soon as the Court House and Gaol of either of such two Counties shall have been erected and completed at the County Town of such County, according to the provisions of the fifteenth section of this Act, and the other provisions of the said fifteenth section shall have been complied with by such County, it shall and may be lawful for the Governor of this Province in Council, to issue a Proclamation dissolving the Union between such County and the United Counties of Lincoln, Haldimand and Welland, or, if one of such Counties shall have been then already separated by Proclamation from such Union, then dissolving the Union between such County and the said County of Lincoln, and from the date of such Proclamation dissolving the Union between either of such Counties and the other two Counties belonging to such Union, the remaining County shall, with the said County of Lincoln, form a Union of Counties until the Union between the other of such Counties and the said County of Lincoln shall in like manner be dissolved, and from the separation of either of such two Counties from the said United Counties of Lincoln, Haldimand and Welland, the said County of Lincoln and the other of such two Counties shall form a Union of Counties under this Act, until the separation of such two last mentioned Counties as herein provided; and all the provisions of this Act applicable to Unions of Counties in general, shall be applicable to such Union, to all intents and purposes, as if the said County of Lincoln and such other County had been set forth as such, in the Schedule to this Act annexed marked A.

Property of Districts transferred to Counties and Unions.

XXXV. And be it enacted, That all the public property, both real and personal, of the several Districts in Upper-Canada, shall become the property of, and the same is hereby conveyed and transferred to and vested in the Municipal Corporations of the several Counties and Unions of Counties, to which respectively the judicial and other proceedings pending in such Districts respectively, are transferred by the thirtieth Section of this Act, as set forth in the said Schedule to this Act annexed marked B.

Acts, &c., inconsistent with this Act repealed.

XXXVI. And be it enacted, That all Acts and parts of Acts and provisions of Law of what nature or kind soever, in force in that part of this Province called Upper Canada, or any part thereof, immediately before the time this Act shall come into force, which shall be inconsistent with or contradictory to this Act, or any part thereof, or which make any provision in any matter provided for by this Act, other than such as is hereby made in such matter, shall, so far as the same shall be inconsistent with the provisions of this Act or any of them, be, and the same is hereby so far repealed to all intents and purposes whatsoever.

XXXVII.

XXXVII. And be it enacted, That Her Majesty's Justices of the Peace, and other persons holding Commission or Office, or bearing lawful authority, in the different Districts in Upper-Canada, from which judicial and other proceedings are by this Act transferred to the several Counties and Unions of Counties in the same, as set forth in the Schedule to this Act annexed marked B, shall continue to hold, enjoy and exercise the like Commission, Office, Authority, Power and Jurisdiction, within the County or Union of Counties respectively, to which such judicial and other proceedings are hereby respectively transferred as in the said Schedule set forth, respectively, to all intents and purposes whatsoever, as if their respective Commissions or other authorities were expressed to be for such County or Union of Counties, instead of for such District respectively.

Who shall be Justices of the Peace in Counties and Unions.

XXXVIII. And be it enacted, That this Act may be amended, altered or repealed by any Act to be passed in this present Session of Parliament.

Act may be amended this Session.

SCHEDULE A.

Counties of Upper-Canada united for Judicial and other purposes.

The United Counties of—

1. Essex and Kent.
2. Frontenac, Lennox and Addington.
3. Lanark and Renfrew.
4. Leeds and Grenville.
5. Lincoln, Haldimand and Welland.
6. Northumberland and Durham,
7. Prescott and Russell.
8. Stormont, Dundas and Glengarry.
9. Wentworth and Halton.

SCHEDULE B.

Counties and Unions of Counties in Upper-Canada, to which Judicial and other proceedings of the late Districts are transferred respectively under this Act :

To,

- | | |
|--|----------------------------------|
| 1. Carleton..... | those of the Dalhousie District. |
| 2. Essex and Kent..... | “ Western “ |
| 3. Frontenac, Lennox and Addington.... | “ Midland “ |
| 4. Hastings..... | “ Victoria “ |
| 5. Huron..... | “ Huron “ |
| 6. Lanark and Renfrew..... | “ Bathurst “ |
| 7. Leeds and Grenville..... | “ Johnstown “ |
| 8. Lincoln, Haldimand and Welland..... | “ Niagara “ |

9. Middlesex.....	those of the London District.
10. Norfolk.....	“ Talbot “
11. Northumberland and Durham.....	“ Newcastle “
12. Oxford.....	“ Brock “
13. Peterborough.....	“ Colborne “
14. Prescott and Russell.....	“ Ottawa “
15. Prince Edward.....	“ Prince Edward “
16. Simcoe.....	“ Simcoe “
17. Stormont, Dundas and Glengarry.....	“ Eastern “
18. Waterloo.....	“ Wellington “
19. Wentworth and Halton.....	“ Gore “
20. York.....	“ Home “

SCHEDULE C.

Counties in Upper-Canada which henceforth shall, for all purposes, include and consist of the Townships and places therein mentioned.

1. Haldimand, which shall include and consist of the Townships of Canboro, Cayuga, Dunn, Moulton, Oneida, Rainham, Seneca, Sherbrooke and Walpole.

2. Halton, which shall include and consist of the Townships of Beverley, Dumfries, Esquesing, East Flamborough, West Flamborough, Nassagaweya, Nelson and Trafalgar.

3. Norfolk, which shall include and consist of the Townships of Charlotteville, Houghton, Middleton, Townsend, Woodhouse, Windham, Walsingham and Long Pointe, and Ryerson's Island in Lake Erie.

4. Waterloo, which shall include and consist of the Townships of Arthur, Amaranth, Bentinck, Derby, Eramosa, Egremont, Erin, Guelph, Glenelg, Garrafraxa, Holland, Luther, Mornington, Minto, Maryborough, Melancton, Normanby, Nichol, Peel, Proton, Puslinch, Sydenham, Sullivan, Waterloo, Wilmot, Woolwich and Wellesley.

5. Wentworth, which shall include and consist of the Townships of Ancaster, Brantford, Binbrooke, Barton, Glandford, Onondago, Saltfleet and Tuscarora.

CAP. LXXIX.

An Act to supply certain necessary Legislative provisions not included in certain Acts therein mentioned.

[30th May, 1849.]

Preamble.

10 and 11
Vict. c. 39.

WHEREAS an Act of the Parliament of this Province was passed in the Session of Parliament held in the tenth and eleventh years of Her Majesty's Reign, chaptered thirty-nine, and intituled, *An Act to divide the Western District of the Province of Canada, and for other purposes therein mentioned*, and which Act is referred

referred to and further provision made with respect to the territory to which the same applies by a certain other Act of the Parliament of this Province, passed in the present Session thereof, intituled, *An Act for abolishing the Territorial Division of Upper-Canada into Districts, and for providing for temporary Unions of Counties for Judicial and other purposes, and for the future dissolutions of such Unions, as the increase of wealth and population may require*; And whereas by the former of the said Acts provision was made for the erection of a new District, which description of territorial division is by the latter of such Acts abolished; And whereas, while the said last mentioned Act treats the area of territory which by the first mentioned Act was embraced in such new District as containing two separate counties under the names of Kent and Lambton, respectively, the Townships of which such Counties respectively consist are not specifically declared by either of the said Acts, and it is therefore expedient that such omission should be supplied: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That for the purpose of the said last mentioned Act, and for all other purposes whatsoever, the said County of Kent shall from henceforth include and consist of the Townships of Camden, Chatham, East Dover, West Dover, Harwich, Howard, Orford, Raleigh, Romney, East Tilbury, West Tilbury and Zone, and that the said County of Lambton shall from henceforth include and consist of the Townships of Brooke, Dawn, Bosanquet, Enniskillen, Euphemia, Moore, Plympton, Sarnia, Sombra, and Warwick; and this provision with respect to the said Counties shall have the like effect to all intents and purposes whatsoever, as if the same had been inserted in either or both of the said Acts of Parliament: Provided always, nevertheless, firstly, that the said County of Lambton shall for the purpose of representation in the Legislative Assembly, continue united with the said County of Kent so as together to return one member to the said Legislative Assembly, as the territory of which such Counties consist doth at present; And provided also, secondly, that the said Counties of Kent and Lambton and the County of Essex shall form a Union of Counties, to be known as the United Counties of Essex, Kent and Lambton, until such Union shall be dissolved by Proclamation as provided by the said last mentioned Act of Parliament, or otherwise as hereinafter provided, and all the provisions of the said last mentioned Act of Parliament, applicable to Unions of Counties in general, shall be applicable to such Union to all intents and purposes as if the same had been inserted in the said last mentioned Act of Parliament and the Schedules thereto annexed, under the name of the United Counties of Essex, Kent and Lambton as aforesaid, instead of under that of the United Counties of Essex and Kent.

County substitution Act of this Session.

Of what Townships Kent and Lambton respectively shall consist.

Provide as to representation.

Provide as to the temporary Union of Kent, Essex and Lambton, for certain purposes.

II. And be it enacted, That as well for the purposes of this Act and the said other Acts of Parliament hereinbefore mentioned and referred to, as for all other purposes whatsoever, so much of the said Township of Dawn as lies to the south of the south main branch of the River Sydenham, sometimes known as Bear Creek, shall be detached from the said Township of Dawn, and by and under the name of the Gore of Camden, be attached to and henceforth form a part of the said Township of Camden; that so much of the said Township of Sombra as lies to the south of the said south main

Parts of Dawn, Sombra and Zone detached from the said Townships.

main branch of the said river shall be detached from the said Township of Sombra, and by and under the name of the North Gore of Chatham be attached to and henceforth form a part of the said Township of Chatham; and that so much of the said Township of Zone as lies to the north of the northerly side line of lots numbers fifteen in the several concessions of the said Township of Zone, shall be detached from the said Township, and shall henceforth form a new Township by and under the name of the Township of Euphemia.

New Town-
ship constitu-
ted.

Certain pro-
visions of the
County substi-
tution Act ex-
tended to the
Union of Kent,
Essex and
Lambton.

Proviso as to
certain pro-
visions of 10
and 11 Vict.,
c. 39.

III. And be it enacted, That all the provisions of the thirty-third and thirty-fourth sections of the said last mentioned Act, making certain provisions with respect to the United Counties of Lincoln, Haldimand and Welland, shall extend and apply to the said United Counties of Essex, Kent and Lambton, and every of them, as if they and each of them had been mentioned in such sections and the said Schedules to the said Act annexed, respectively; and all the provisions in the said last mentioned Act of Parliament providing for a Union of the said Counties of Kent and Lambton, apart from and irrespective of their Union with Essex, shall be and the same are hereby repealed: Provided always, nevertheless, that all such provisions as by the Act of the Parliament of this Province, passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, intituled, *An Act to divide the Western District of the Province of Canada, and for other purposes therein mentioned*, were conferred upon the Township Councillors of the different Townships of the then County of Kent, shall be possessed by and vested in the Provisional Municipal Council of the said County of Kent as described in this Act; and such Provisional Municipal Council shall be charged with and liable to any debt that may have been contracted by competent authority on behalf of the District by that Act intended to be erected; and the Municipal Council of the said County of Kent as described in this Act, both Provisional and Permanent, shall and they are hereby required to provide for the payment of every such debt, and in default of their doing so, the same shall and may be sued for, recovered and levied by rate or otherwise as in the case of debts of any other Municipal Corporation in Upper-Canada.

Recital.

On what ap-
plication the
Union between
Lambton and
the other
Counties may
be dissolved.

Proviso.

IV. And whereas from the geographical position of the said County of Lambton it is expedient that provision be made for its separation from the said Union, without waiting till its population shall be such as is required by the tenth section of the said Act of this present Session providing for the dissolution of such Unions: Be it therefore enacted, That it shall and may be lawful for the Governor of this Province by an Order in Council, upon the Petition of two-thirds or more of the Townreeves of the said County of Lambton, to issue a Proclamation under the said tenth section of the said last mentioned Act: Provided always, nevertheless, that none of the restrictions in the second proviso to the said tenth section of the said last mentioned Act shall extend or apply to the said Petition.

Word Town-
reeves inter-
preted.

V. And be it enacted, That the term "Townreeves" in the said last mentioned Act, in this Act, and in all other Acts passed or to be passed, wherein it refers or shall refer to the Municipal Council of any County or Union of Counties, or to those who compose the same, shall include and be construed to include the Deputy-Townreeves for the different localities of such County or Union of Counties, as well as the Townreeves for the same.

Proviso as to
Registry offices
in case of dis-

VI. And be it enacted, That on the dissolution of the Union between any County and any other County or Union of Counties in the manner provided for by the said last mentioned

mentioned Act, a Registrar shall be appointed for the County so separated, and a Registry Office for the registry of deeds shall be kept in and for the same at the County Town thereof, in the same manner and under the same provisions as in other Counties in Upper-Canada: Provided always, nevertheless, that unless where such separate Registry Office is already established in any such County, there shall be but one Registrar and one Registry Office for each Union of Counties in Upper-Canada, so long as they shall continue united as aforesaid.

solution of
Unions.

Proviso.

VII. And be it enacted, That this Act shall come into and be in operation upon, from and after the first day of January, one thousand eight hundred and fifty.

Commence-
ment of this
Act.

VIII. And be it enacted, That this Act may be amended, altered or repealed by any Act to be passed in this present Session of Parliament.

Act may be
amended.

C A P. L X X X.

An Act to repeal the Acts in force in Upper-Canada, relative to the Establishment of Local and Municipal Authorities, and other matters of a like nature.

[30th May, 1849.]

WHEREAS it is expedient to repeal the several Acts in force in Upper-Canada, relating to the Incorporation of the Inhabitants of the several Districts of that part of this Province, and of certain other localities therein, the Election and duties of Township Officers, and other matters of a like nature, to the end that better provision may be made for such purposes: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the several Acts of the Parliament of the late Province of Upper-Canada, and those of the Parliament of this Province set forth in the Schedule to this Act annexed marked A, and containing a description of the Acts and parts of Acts repealed by this Act, so far as the same shall be in force at the commencement of this Act, and all Acts continuing or making permanent any of the said Acts, or continued or made permanent by any of them, shall be, and the same are hereby repealed: Provided always, nevertheless, Firstly: That no Act or part of an Act repealed by any of the Acts hereby repealed, shall be revived by the passing of this Act, and no Act, or part of an Act, perpetuated or continued by any of the Acts hereby repealed, (except such as are herein expressly repealed), shall be repealed by the passing of this Act; And provided always, Secondly: That notwithstanding the repeal of the Acts and parts of Acts hereby repealed, all acts which might have been done, and all proceedings which might have been taken or prosecuted relating to any offences or neglects which may have been committed, or to any matters which shall have happened, or to any moneys which shall have become due, or to any fines or penalties which shall have been incurred before the day on which this Act shall come into operation, shall and may still be done or prosecuted, and the offences and omissions may be dealt with and punished, and the moneys may be recovered and dealt with, and the fines and penalties may be imposed and applied as if the Acts, and parts of Acts, hereby

Preamble.

The Acts and parts of Acts mentioned in the Schedule repealed with Acts continuing them or continued by them.

Proviso: Acts not to be revived or repealed, &c., by the passing of this Act, by implication.

Proviso as to proceedings relative to offences and other matters occurring before this Act shall be in force, under the Acts repealed.

Exception.

hereby repealed, continued in force, except only so far as the new Municipal Corporations to be created by and under the provisions of the Act of the present Session of Parliament to provide for the Incorporation of Townships, Counties, Villages, Towns and Cities in Upper-Canada, shall or may be substituted for the old ones.

Recital.

All Acts and parts of Acts relating to certain subjects—except those saved in Schedule B—repealed.
Further exception.

II. And in order that no doubt shall remain whether any or what part of any former Acts relating to the Incorporation of the Inhabitants of the several Districts of that part of this Province, and of the other localities therein, or the Election and duties of Township Officers, continue in force: Be it enacted, That all Acts and parts of Acts relating to the same, shall be, and the same are hereby repealed, so far as such Acts or parts of Acts shall be in force at the commencement of this Act, save and except such Acts or parts of Acts as are mentioned in the Schedule to this Act annexed, marked B, and save and except all other Acts made expressly for other purposes, although they incidentally touch on matters relating to such subjects, or although the provisions thereof are to be carried into effect by Officers elected or appointed under such Acts or parts of Acts, nevertheless, such matters and provisions last mentioned, so far as they are repugnant to, or inconsistent with the Act or Acts relating to such matters in force at the time, shall be, in all respects, controlled by such last mentioned Act or Acts, unless the contrary shall have been expressed in such last mentioned Act or Acts.

Recital.

Provisions relative to assessments saved.

III. And whereas certain Acts mentioned and set forth in the Schedules hereto annexed, to be hereby repealed either in the whole or in part, contain certain special provisions respecting assessments upon property in the Cities, Towns and Villages to which they respectively refer; and whereas such Acts or parts of Acts are not in the said Schedules excepted out of the repeal hereby intended under the expectation that a general Act will be passed during the present Session of Parliament for establishing a more just general system of assessment in Upper-Canada than that now in force therein, and it is therefore expedient to provide that in case such Act should not be so passed, the said provisions shall remain in force: Be it therefore enacted, That until such Act for a more just general system of assessment in Upper-Canada shall be passed, or other Legislative provision be made in that behalf, so much of the several Acts mentioned in the Schedules to this Act annexed as established provide for, or regulate the assessment or mode of assessment, or the property to be assessed in any of such Cities or the liberties thereof, or in any of such Towns or Villages, or any matter relating to the same, shall continue in force as if such Acts or parts of Acts had in the said Schedules been specially excepted from repeal; and all such Acts and parts of Acts shall extend and apply to every such City and the liberties thereof, and to every such Town and Village respectively, according to the extended or altered limits thereof as established by an Act of the present Session of Parliament, intituled, *An Act to provide by one general Law for the erection of Municipal Corporations, and the establishment of regulations of Police in and for the several Counties, Cities, Towns, Townships and Villages in Upper-Canada.*

Commencement of this Act.

IV. And be it enacted, That this Act shall commence and have force and effect upon, from and after the first day of January, in the year of our Lord, one thousand eight hundred and fifty, and not before.

Act may be amended, &c., this Session.

V. And be it enacted, That this Act may be amended, altered or repealed by any Act to be passed in this present Session of Parliament.

SCHEDULES

SCHEDULES TO WHICH THIS ACT REFERS.

SCHEDULE A,

CONTAINING A DESCRIPTION OF THE ACTS AND PARTS OF ACTS REPEALED BY THIS ACT.

FIRST DIVISION.

Acts of the Parliament of the late Province of Upper-Canada.

No.	DATE AND SUBJECT OF ACT.	TITLE.	EXTENT OF REPEAL.
1	37 Geo. 3, Cap. 10, Ferries.....	An Act for the regulation of Ferries.....	} So much as vests any powers in the Magistrates in Quarter Sessions.
2	43 Geo. 3, Cap. 10, Cattle running at large..	An Act to extend the provisions of an Act passed in the thirty-fourth year of His Majesty's Reign, intituled, "An Act to restrain the custom of permitting Horned Cattle, Horses, Sheep and Swine to run at large."...	
3	43 Geo. 3, Cap. 11, Assessment for Members' Indemnity.....	An Act the more conveniently to collect the compensation to the Members of the House of Assembly for their attendance in their duty in Parliament, and to repeal part of an Act passed in the Parliament of this Province, in the thirty-third year of His Majesty's Reign, intituled, "An Act to authorize and direct the laying and collecting of Assessments and Rates within this Province, and to provide for the payment of wages to the House of Assembly.".....	The whole.
4	50 Geo. 3, Cap. 1, Highways.....	An Act to provide for the laying out, amending and keeping in repair, the Public Highways and Roads in this Province, and to repeal the Laws now in force for that purpose.....	The whole.
5	50 Geo. 3, Cap. 12, Haldimand Town Meetings.....	An Act to authorize the Inhabitants of the County of Haldimand, to hold annual meetings for the purpose of electing Town and Parish Officers..	} Sections one to eleven, inclusive, and Sections thirteen to thirty-four, inclusive.
6	52 Geo. 3, Cap. 10, Highways.....	An Act to amend an Act passed in the fiftieth year of His Majesty's Reign, intituled, "An Act to provide for laying out, amending and keeping in repair the Public Highways and Roads in this Province, and to repeal the Laws now in force for that purpose."....	
7	54 Geo. 3, Cap. 15, York Market.....	An Act to empower the Commissioners of the Peace for the Home District, in their Court of General Quarter Sessions assembled, to establish and regulate a Market in and for the Town of York, in the said District.	The whole.
8	57 Geo. 3, Cap. 2, York, Amherstburgh and Sandwich.....	An Act to establish a Police in the Towns of York, Sandwich and Amherstburgh.....	The whole.
9	57 Geo. 3, Cap. 4, Niagara Market.....	An Act to establish a Market in the Town of Niagara, in the Niagara District.....	The whole.

FIRST DIVISION—*Continued.*

No.	DATE AND SUBJECT OF ACT.	TITLE.	EXTENT OF REPEAL.
10	59 Geo. 3, Sess. 2, Cap. 5, Niagara.....	An Act for establishing a Police in the Town of Niagara, in the District of Niagara, and for other purposes therein mentioned.....	The whole.
11	59 Geo. 3, Sess. 2, Cap. 11, Niagara Market.....	An Act to amend and repeal part of an Act passed in the fifty-seventh year of His Majesty's Reign, intituled, "An Act to establish a Market in the Town of Niagara, " in the Niagara District.".....	The whole.
12	2 Geo. 4, Sess. 2, Cap. 11, Cattle running at large.	An Act to repeal in part a certain part of an Act passed in the forty-third year of His late Majesty's Reign, intituled, "An Act to extend the provisions of an Act " passed in the thirty-fourth year of His Majesty's " Reign, intituled, "An Act to restrain the custom of " " permitting Horned Cattle, Horses, Sheep and Swine, " " to run at large," and further to enable the Magistrates in their respective Districts in this Province, in General Quarter Sessions assembled, to make such rules and regulations as may restrain Swine, running at large in the respective Towns in this Province, where a Police is or may hereafter be established by Law.....	The whole.
13	2 Geo. 4, Sess. 2, Cap. 13, Police moneys.....	An Act requiring the publication of the expenditure of moneys raised under any law, establishing a Police in any Town or Towns in this Province.....	The whole.
14	2 Geo. 4, Sess. 2, Cap. 15, Perth Market.....	An Act to establish a Market in the Town of Perth, in the County of Carleton.....	The whole.
15	4 Geo. 4, Sess. 1, Cap. 34, Niagara Police, &c.....	An Act to continue and amend an Act passed in the fifty-ninth year of His late Majesty's Reign, intituled, "An " Act for establishing a Police in the Town of Niagara, " in the District of Niagara, and for other purposes " therein mentioned.".....	The whole.
16	8 Geo. 4, Cap. 14, Street Surveyors.....	An Act to amend the Laws now in force for the appointment of Street Surveyors, so far as relates to the several Towns in this Province other than those in which the General Quarter Sessions of the Peace are by law holden.....	The whole.
17	1 William 4, Cap. 3, Amherstburgh Wharfage Fees.....	An Act to establish a Market and to establish Wharfage Fees in the Town of Amherstburgh, in the Western District.....	The whole.
1	2 William 4, Cap. 17, Brockville.....	An Act to establish a Police in the Town of Brockville, in the District of Johnstown.....	The whole.
19	3 William 4, Cap. 10, Hamilton.....	An Act to define the limits of the Town of Hamilton, in the District of Gore, and to establish a Police and Public Market therein.....	The whole.
20	3 William 4, Cap. 40, Brockville Market.....	An Act to establish a Market in the Town of Brockville.	The whole.

FIRST DIVISION—Continued.

No.	DATE AND SUBJECT OF ACT.	TITLE.	EXTENT OF REPEAL.
21	4 William 4, Cap. 12, Line Fences, &c.....	An Act to regulate Line Fences and Water Courses, and to repeal so much of an Act passed in the thirty-third year of the Reign of His late Majesty King George the Third, intituled, "An Act to provide for the nomination and appointment of Parish and Town Officers within this Province," as relates to the Office of Fence Viewers, being discharged by Overseers of Highways and Roads.....	
22	4 William 4, Cap. 23, Toronto.....	An Act to extend the limits of the Town of York, to erect the said Town into a City, and to incorporate it under the name of the City of Toronto.....	The first Section. { Sections one to ninety-five, inclusive, and also the whole of Section ninety-six, except the proviso.
23	4 William 4, Cap. 24, Belleville.....	An Act to establish a Board of Police in the Town of Belleville.....	
24	4 William 4, Cap. 25, Cornwall.....	An Act to establish a Police in the Town of Cornwall, in the Eastern District.....	The whole.
25	4 William 4, Cap. 26, Port Hope.....	An Act to define the limits of the Town of Port Hope, and to establish a Police therein.....	The whole.
26	4 William 4, Cap. 27, Prescott.....	An Act to incorporate the Village of Prescott, and to establish an Elective Police therein.....	The whole.
27	5 William 4, Cap. 6, Assessment for Members' Indemnity.....	An Act to provide for the payment of wages to the Members of the House of Assembly who represent the different Towns in this Province.....	The whole.
28	6 William 4, Cap. 1, Assessment, Members' Indemnity.....	An Act to provide for the payment of wages to Members representing Cities and Incorporated Towns within the Province.....	The whole.
29	6 William 4, Cap. 13, Brockville Market.....	An Act to establish a Market in the West Ward of the Town of Brockville.....	The whole.
30	6 William 4, Cap. 14, Belleville.....	An Act to repeal an Act passed in the fourth year of His present Majesty's Reign, intituled, "An Act to establish a Board of Police in the Town of Belleville," and to make further provisions for the establishment of a Police in said Town.....	The whole.
31	7 William 4, Cap. 24, House of Industry.....	An Act to authorize the erection, and provide for the maintenance of Houses of Industry in the several Districts of this Province.....	So much of the first Section as vests any powers granted thereby in the Grand Juries or the Magistrates in Quarter Sessions, or limits the expenditure, and the whole of the second Section.
32	7 William 4, Cap. 39, Toronto.....	An Act to alter and amend an Act passed in the fourth year of His Majesty's Reign, intituled, "An Act to extend the limits of the Town of York, to erect the said Town into a City, and to incorporate it under the name of the City of Toronto.".....	

FIRST DIVISION—Continued.

No.	DATE AND SUBJECT OF ACT.	TITLE.	EXTENT OF REPEAL.
33	7 William 4, Cap. 41, Toronto Markets.....	An Act to establish two additional Markets in the City of Toronto.....	The whole.
34	7 William 4, Cap. 42, Cobourg.....	An Act to establish a Police in the Town of Cobourg, and to define the limits of the said Town.....	The whole.
35	7 William 4, Cap. 44, Picton.....	An Act to incorporate the Villages of Hallowell and Picton, by the name of the Town of Picton, and establish a Police therein.....	The whole.
36	1 Vict. Cap. 17, Assessment, Members' Indemnity.....	An Act to alter the mode of payment of wages to Members of the House of Assembly.....	The whole.
37	1 Vict. Cap. 21, Township Officers.....	An Act to alter and amend sundry Acts regulating the appointment and duties of Township Officers.....	} Sections one to thirty-one, inclusive, and thirty-six to fifty-one, inclusive.
38	1 Vict. Cap. 27, Kingston.....	An Act to incorporate the Town of Kingston, under the name of the "The Mayor and Common Council of the Town of Kingston".....	The whole.
39	2 Vict. Cap. 36, Kingston.....	An Act to render valid the late Elections for Aldermen and Councilmen for the Town of Kingston.....	} Sections two, three and four.
40	2 Vict. Cap. 37, Kingston.....	An Act to amend an Act passed in the first year of Her Majesty's Reign, intituled, "An Act to incorporate the "Town of Kingston, under the name of the Mayor and "Common Council of the Town of Kingston.".....	The whole.
41	2 Vict. Cap. 45, Hamilton Market.....	An Act to establish a Second Market in the Town of Hamilton, to enable the Corporation of the said Town to effect a loan, and for other purposes therein mentioned	The whole.
42	2 Vict. Cap. 46, Niagara Market.....	An Act to authorize the Trustees of the Market Reserve in the Town of Niagara, to raise a sum of money for certain purposes therein mentioned.....	} The whole, except so much of the second Section as reserves any privileges or advantages to certain Lessees and Tenants or their Assigns.
43	3 Vict. Cap. 31, London.....	An Act to define the limits of the Town of London, in the District of London, and to establish a Board of Police therein.....	The whole.
44	3 Vict. Cap. 47, Toronto.....	An Act to continue an Act passed in the seventh year of the Reign of His late Majesty, King William the Fourth, intituled, "An Act to alter and amend an Act passed in the fourth year of His Majesty's Reign, " intituled, "An Act to extend the limits of the Town " of York, to erect the said town into a City, and to " incorporate it under the name of the City of To- " ronto.".....	The first Section.

SECOND DIVISION.

Acts of the Parliament of the Province of Canada.

No.	DATE AND SUBJECT OF ACT.	TITLE.	EXTENT OF REPEAL.
45	4 & 5 Vict. Cap. 10, Municipalities.....	An Act to provide for the better internal Government of that part of this Province which formerly constituted the Province of Upper-Canada, by the establishment of Local or Municipal Authorities therein.....	The whole.
46	8 Vict. Cap. 7, County and Township Divisions.....	An Act for better defining the limits of the Counties and Districts in Upper-Canada, for erecting certain new Townships, for detaching Townships from some Counties and attaching them to others, and for other purposes relative to the division of Upper-Canada into Townships, Counties and Districts.....	The whole, except Sections one, two, five, seven, eight, nine, ten, eleven, thirteen and fifteen, together with the Schedules A and B.
47	8 Vict. Cap. 20, Fences and water courses.	An Act to repeal an Act therein mentioned, and to provide for the regulation of Line Fences and Water Courses in Upper-Canada.....	So much of the first Section as vests the appointment of Fence-Viewers in the Inhabitant Freeholders and Householders at their annual meetings.
48	8 Vict. Cap. 61, Kingston.....	An Act to repeal a certain provision of the Act incorporating the Town of Kingston, and to provide for the Assessment and collection of the District Taxes in the said Town, by an Assessor and Collector to be appointed by the District Council.....	The whole.
49	8 Vict. Cap. 62, Niagara.....	An Act to incorporate the Town of Niagara, and to establish a Police therein.....	The whole.
50	8 Vict. Cap. 63, St. Catharines.....	An Act to incorporate the Town of Saint Catharines.....	The whole.
51	9 Vict. Cap. 40, Municipal Councils.....	An Act to amend the Laws relative to District Councils in Upper-Canada.....	The whole.
52	9 Vict. Cap. 46, County and District Di- visions.....	An Act to amend the Act for defining the limits of Counties and Districts in Upper-Canada.....	The whole.
53	9 Vict. Cap. 51, Niagara and Queenston.	An Act to alter the mode of Assessment in the Towns of Niagara and Queenston.....	The whole.
54	9 Vict. Cap. 70, Toronto.....	An Act to amend the Act of Incorporation of the City of Toronto.....	The whole.
55	9 Vict. Cap. 71, Cobourg.....	An Act to alter and amend the Act of Incorporation of the Town of Cobourg.....	The whole.
56	9 Vict. Cap. 72, Cornwall.....	An Act to amend the Act of Incorporation of the Town of Cornwall, and to establish a Town Council therein, in lieu of a Board of Police.....	The whole.
57	9 Vict. Cap. 73, Hamilton.....	An Act to alter and amend the Act incorporating the Town of Hamilton, and to erect the same into a City..	The whole.
58	9 Vict. Cap. 75, Kingston.....	An Act to incorporate the Town of Kingston as a City..	The whole.

SECOND DIVISION—*Continued.*

No.	DATE AND SUBJECT OF ACT.	TITLE.	EXTENT OF REPEAL.
59	10 & 11 Vict. Cap. 39, Western District Division.....	An Act to divide the Western District of the Province of Canada, and for other purposes therein mentioned....	Sections one and two, Sections five to nine, inclusive, and Sections thirteen to twenty-one, inclusive.
60	10 & 11 Vict. Cap. 41, Lock-up Houses.....	An Act to establish Lock-up Houses in the unincorporated Towns and Villages of Canada West.....	Sections one, two and four.
61	10 & 11 Vict. Cap. 42, Towns and Villages.....	An Act to confer limited Corporate Powers on the Towns and Villages of Canada West, not specially incorporated.....	The whole.
62	10 & 11 Vict. Cap. 43, Bytown.....	An Act to define the limits of the Town of Bytown, to establish a Town Council therein, and for other purposes.....	The whole.
63	10 & 11 Vict. Cap. 45, Dundas.....	An Act to incorporate the Town of Dundas.....	The whole.
64	10 & 11 Vict. Cap. 46, Kingston.....	An Act to amend the tenth Section of the Act to incorporate the Town of Kingston as a City.....	The whole.
65	10 & 11 Vict. Cap. 47, Prescott.....	An Act to provide for an Assessment of real and personal property in the Town of Prescott, according to the annual value or rental thereof, and for other purposes..	The whole.
66	10 & 11 Vict. Cap. 48, London.....	An Act to repeal the Act of Incorporation of the Town of London, and to establish a Town Council therein, in lieu of a Board of Police, and for other purposes therein mentioned.....	The whole.
67	10 & 11 Vict. Cap. 49, Brantford.....	An Act to incorporate the Town of Brantford.....	The whole.
68	11 Vict. Cap. 12, Dundas.....	An Act to amend the Act to incorporate the Town of Dundas.....	The whole.

SCHEDULE B,

CONTAINING A DESCRIPTION OF THE ACTS AND PARTS OF ACTS SAVED FROM THE OPERATION OF THIS ACT.

FIRST DIVISION.

Acts of the Parliament of the late Province of Upper-Canada.

No.	DATE AND SUBJECT OF ACT.	TITLE.	EXTENT OF SAVING.
1	37 Geo. 3, Cap. 10, Ferries.....	An Act for the regulation of Ferries.....	So much as relates to the duties of persons attending or having charge of Ferries, the penalties to be incurred by them, and the infliction and recovery thereof.
2	50 Geo. 3, Cap. 1, Highways.....	An Act to provide for the laying out, amending and keeping in repair the public Highways and Roads in this Province, and to repeal the Laws now in force for that purpose.....	
3	4 William 4, Cap. 12, Line Fences, &c.....	An Act to regulate Line Fences and Water Courses, and to repeal so much of an Act passed in the thirty-third year of the reign of His late Majesty King George the Third, intituled, "An Act to provide for the nomination and appointment of Parish and Town Officers " within this province," as relates to the office of Fence-Viewers being discharged by Overseers of Highways and Roads.....	Sections twelve and thirty-five.
4	4 William 4, Cap. 23, Toronto.....	An Act to extend the limits of the Town of York, to erect the said Town into a City, and to incorporate it under the name of the <i>City of Toronto</i>	The second, and all the subsequent Sections of the Act.
5	7 William 4, Cap. 24, Houses of Industry.....	An Act to authorize the erection, and provide for the maintenance of Houses of Industry in the several Districts of this Province.....	The proviso to the ninety-sixth Section, and the whole of the ninety-seventh Section.
6	1 Vict. Cap. 21, Township Officers.....	An Act to alter and amend Sundry Acts regulating the appointment and duties of Township Officers.....	So much of the first Section as relates to the powers and duties of Inspectors, and also Sections three, four, five and six.
7	2 Vict. Cap. 36, Kingston.....	An Act to render valid the late elections for Aldermen and Councilmen for the Town of Kingston.....	Sections thirty-two, thirty-three, thirty-four and thirty-five. Section one.

CAP. LXXXI.

An Act to provide, by one general law, for the erection of Municipal Corporations, and the establishment of Regulations of Police, in and for the several Counties, Cities, Towns, Townships and Villages in Upper-Canada.

[30th May, 1849.]

WHEREAS it will be of great public benefit and advantage that provision should be made, by one general law, for the erection of Municipal Corporations and the establishment of Regulations of Police in and for the several Counties, Cities, Towns, Townships and Villages in Upper-Canada: And whereas, with a view to this object, certain Acts of the Parliament of this Province, and certain others of the Parliament of the late Province of Upper-Canada, have, by an Act passed during this present Session of Parliament been repealed: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-write the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That this Act shall commence and have force and effect upon, from and after the first day of January, in the year of our Lord, one thousand eight hundred and fifty, and not before; excepting always such of its provisions as may require that any thing be done preparatory to the first elections to be held under it, which provisions shall be in force immediately upon, from and after the passing thereof.

Preamble.

Commencement of this Act.
Exception as to preparatory proceedings.

I. TOWNSHIPS.

II. And be it enacted, That the inhabitants of each Township in Upper-Canada, which shall have one hundred or more resident freeholders or householders on the Collector's Roll thereof, for the last year that the same shall have been made up, prior to the time this Act is appointed to come into force, shall be a Body Corporate, and as such shall have perpetual succession and a Common Seal, with power to break, renew and alter the same at pleasure, and shall be capable of suing and being sued, of pleading and being impleaded in all Courts and places whatsoever, of purchasing, acquiring and holding lands and tenements, and other real and personal property within such Township for the use of the inhabitants thereof, in their corporate capacity, and of making and entering into such contracts as may be necessary for the exercise of their corporate functions, and that all such powers shall be exercised by, through and in the name of the Municipality of each Township respectively.

Inhabitants of Townships incorporated.
Their Corporate powers.

How exercised.

III. And be it enacted, That it shall be the duty of the Municipal Council for each District in Upper-Canada, at a Special Meeting to be held for that purpose on the second day of October next after the passing of this Act, and to be continued by adjournment from time to time to such period not being beyond the second day of November next thereafter, as may be necessary for completing the business hereby imposed upon them, by a By-law to be passed for that purpose at such meeting, to attach every Township lying within any County in their District which shall have within it less than one hundred resident freeholders and householders on the Collector's Roll for the last year, that the same shall have been made up prior to the said second day of October next, to some other adjacent Township lying within the same County, and such

Townships having less than a certain population to be united to others, and how.

Which shall be the Junior Township.

As to Townships newly laid out or having less than a certain population after 1st Jan. 1850.

As to Townships having Rural Wards.

Word "Township" interpreted.

Townships may be divided into Rural Wards, and how.

A place in each Ward to be appointed for elections, &c.

Publication of By-laws for a division into Wards.

Copy of By-laws to be sent to the person ap-

such Township so united or attached to such adjacent Township, shall, until the dissolution of such Union as provided for by this Act, be known as the Junior Township of such Union of Townships, and be represented in one Municipality in common with such adjacent Township, which shall in like manner be known as the Senior Township of such Union; and from and after the first day of January next, after the passing of this Act, every Township newly laid out by the Crown, or not having within it one hundred resident freeholders and householders on the Collector's Roll, and not then already attached to or united with any other Township as aforesaid, shall, by a By-law of the Municipal Council of the County in which such Township shall be situate, be united for the purposes of this Act to such adjacent Township, in such County as such Municipal Council shall think fit, and also to some one particular rural Ward of such Township, where such last mentioned Township shall have been divided into such Wards, or part of it to one of such Wards and part of it to another of such Wards, with a view to the representation of the freeholders and householders thereof, in the Municipality of such United Townships, and all such Townships shall, while they shall continue so united, be called *The United Townships of* mentioning their names, and the word Township, shall for the purposes of this Act, be held and considered to apply to and include Townships so united as well as single Townships, and such Unions may be made to consist of two or more Townships, as convenience may require.

IV. And be it enacted, That it shall and may be lawful for every such Municipal Council if they deem it expedient so to do, in and by such By-law, to divide each of the Townships (including Unions of Townships as aforesaid,) in each County, into rural Wards, for the election of Township Councillors, for such Township excluding from such Wards any and every Incorporated Village, Town or City, and the liberties thereof lying within the limits of such Township, which Division into rural Wards shall be made in such manner that the several Wards in each of such Townships shall, as regards the number of freeholders and householders entitled to vote at the election of Township Councillors for the same, respectively, be as nearly equal as practicable, regard being however also had to the convenience of such freeholders and householders, and to the rendering each of such rural Wards as compact as circumstances will permit.

V. And be it enacted, That every such Municipal Council, whenever by such By-law they shall divide any such Township into rural Wards as aforesaid, shall in the same By-law appoint a convenient place in each of such Wards for holding the election of Township Councillors for such Ward, and shall also appoint a fit and proper person to hold the first election of a Township Councillor in each of such Wards respectively.

VI. And be it enacted, That copies of every such By-law shall be published by every such Municipal Council, twice at least in the Official Gazette of this Province, and at least four times in some public newspaper, if any there be published in such County, and copies thereof shall be moreover posted up in the four most public places in each Township in such County.

VII. And be it enacted, That every such Municipal Council, whenever by such By-law they shall divide any such Township into rural Wards as aforesaid, and shall fix the places for holding the first elections in such Wards and appoint Returning Officers for

for holding the same, shall cause a copy of such By-law under their seal to be delivered to the person appointed to hold the election for each of such Wards, or to be left for him at his usual place of residence, one calendar month at least prior to the time for holding the election, and every such person shall and he is hereby required to hold the first election of Township Councillor for the Ward to which he shall be so appointed, and in default thereof shall be liable to a penalty of not more than Ten pounds for his default in the premises.

pointed to hold the election in a Rural Ward, &c.

VIII. And be it enacted, That it shall and may be lawful for the Municipality of each Township from time to time by any By-law or By-laws to be passed for that purpose, to divide such Townships anew into several Wards as aforesaid, re-arranging the same so as more effectually to accomplish the objects aforesaid, every which division by such Municipality shall supersede that so to be made by such District or County Municipal Council as well as every previous division made by such Municipality itself; Provided always, nevertheless, that no such first mentioned By-law shall be of any force or effect unless the same shall have been passed by a vote of at least four fifths of the members of such Municipality for the time being.

Any Township division into Rural Wards may be altered.

Proviso as to By-law for altering it.

IX. And be it enacted, That it shall and may be lawful for the Municipality of each Township from time to time by any By-law or By-laws to be passed for that purpose, to appoint a fit and convenient place in each of the several Wards into which such Township shall be divided for holding the election of Township Councillors therefor, every which appointment shall supersede that made by such District or County Municipal Council, as well as any appointment previously made by such Municipality.

Place for holding elections may be altered.

X. And be it enacted, That it shall be the duty of every Township Municipality whose Township shall be divided into rural Wards as aforesaid, to appoint annually fit and proper persons to be the Returning Officers for holding the elections of Township Councillors in the several rural Wards into which such Township shall be so divided.

Returning Officers to be appointed.

XI. And be it enacted, That whenever any Junior Township of any such Union of Townships as hereinbefore mentioned and provided for, shall have within it one hundred resident freeholders and householders on the Collector's Roll, it shall and may be lawful for the Municipal Council of the County in which such Township shall lie, if they shall deem it expedient so to do, by a By-law to be passed for that purpose within the first nine calendar months of the following year, to divide such Junior Township into rural Wards, to fix the place for holding the first election of Councillors in each of such Wards, and to appoint Returning Officers for holding the same, and otherwise to provide for the due holding of such elections, as nearly as may be in the manner prescribed in and by the fourth, fifth, sixth and seventh preceding sections of this Act.

Provision as to division of the Junior Counties into Wards in case of separation.

XII. And be it enacted, That whenever any Junior Township of any such Union of Townships as is hereinbefore mentioned and provided for, shall have within it one hundred resident freeholders and householders on the Collector's Roll, such Junior Township upon, from and after the first day of January in the year next but one thereafter, shall be incorporated by itself, and such Junior Township and the other Township or Townships to which it shall have been theretofore united, shall, from thenceforth to all intents and purposes whatsoever, be held and considered as separate Townships.

Provision for separation when the Junior Townships have sufficient population.

Provision as to proper alterations in the remaining Township, for elections, &c., Rural Wards, &c.

Proviso as to majority to pass the By-law.

Proviso: Commencement of By-law.

Provision as to elections if the proper alterations have not been made, &c.

Proviso: if parts of Ward remain in the Senior Township.

Number of Rural Wards in each Township.

When a Township united to another shall be incorporated by itself.

XIII. And be it enacted, That whenever any Junior Township attached or united to another as herein before mentioned and provided for, shall have within it one hundred resident freeholders and householders on the Collector's Roll, it shall and may be lawful for the Municipality of such Union of Townships, if they shall deem it expedient so to do, by a By-law to be passed for that purpose within the first nine calendar months of the following year, to divide the remaining Township or Townships of such Union anew into rural Wards, to fix the place for holding the first election of Councillors in each of such Wards after the dissolution of such Union, and to appoint Returning Officers for holding the same, and otherwise to provide for the due holding of such elections as nearly as may be in the manner prescribed in and by the eighth, ninth and tenth preceding sections of this Act: Provided always, nevertheless, firstly, that such By-law need not be passed by a vote of two thirds of the members for the time being of such Municipality as required with respect to some of such particulars by the proviso to the said eighth section, but shall be valid and effectual for all purposes whatever if passed by a majority of such Municipality in the usual way; Provided also, secondly, that every such By-law shall contain a provision limiting it to come into force and take effect upon, from and after the first day of January, upon which such Union shall be dissolved, and not before.

XIV. And be it enacted, That whenever such new Division into Wards shall not have been made by the Municipality of any Union of Townships according to the next preceding section of this Act in anticipation of the dissolution of such Union, and in consequence of the whole of any one or more of the rural Wards of any such Union of Townships lying wholly within the limits of any Junior Township of such Union, the other Township or Townships of such Union, upon the dissolution of such Union as provided for by this Act, shall be left without a sufficient number of Wards for completing the number of Councillors to which it or they shall be entitled according to the provisions of this Act, the elections of Councillors for such Senior or remaining Township or Townships, shall, after the dissolution of such Union, be made by general vote of the qualified freeholders and householders of the whole of such Senior or remaining Township or Townships at a general Township meeting to be held for that purpose at the time appointed by law, and not by rural Wards as theretofore, until the Municipality of such Senior or remaining Township or Townships shall by a By-law to be passed for that purpose have redivided such last mentioned Township or remaining Townships into rural Wards according to the provisions of this Act; Provided always, nevertheless, that whenever notwithstanding the dissolution of any such Union, parts of the Wards of which such Junior Township, or some portion thereof formed a part, shall still remain to such Senior or remaining Township or Townships, the election of Township Councillors for the same shall not be by such general vote of such Township, but by Wards as before.

XV. And be it enacted, That in every case in which any Township shall be divided into rural Wards under this Act, the same shall be so divided into five of such Wards.

XVI. And be it enacted, That whenever any Township so attached or united to another shall have within it fifty resident freeholders and householders on the Collector's Roll, such Township shall, for the year following the making up such roll and thenceforth, be incorporated by itself, and such Township, and that to which it shall

shall have been so united, shall thenceforth, to all intents and purposes whatsoever, be held and considered as separate Townships.

XVII. And be it enacted, That no part of any Incorporated City or of the liberties thereof, or of any Incorporated Town or Village, although lying within the boundaries of a Township shall, for the purposes of this Act, be held to form any part of such Township, nor shall it be lawful to appoint any election of Township Councillors to be held within the limits of any such City or the liberties thereof, or within the limits of any such Incorporated Town or Village.

No part of Cities, &c., to form part of Townships; nor shall Township elections be held there.

XVIII. And be it enacted, That without any new election, the officers and persons elected or appointed in each and every Township in Upper-Canada, or to be elected or appointed under the laws now in force therein, shall continue in office until the fourth Monday of January, in the year of our Lord, one thousand eight hundred and fifty, and until their successors shall be elected and sworn into office.

Continuation in office of present Officers, &c., of Townships.

XIX. And be it enacted, That if the Municipal Council of any District in Upper-Canada shall not think fit, within the term and the manner prescribed for that purpose, to divide any Township into rural Wards, as provided by this Act, then and until such Township shall be divided into such Wards by the Municipality thereof, the election of Councillors for such Township shall be by the votes of the electors of the whole Township at a general Township meeting, to be held at the place where the last annual Township meeting, for the election of District Councillors and the appointment of parish and Town Officers was held in each Township, or in the case of Townships united or attached to each other, as aforesaid, then at the place where the last annual meeting for such purposes was held in the Senior Townships to which such other Township or Townships shall or may be attached or united as aforesaid, and such place shall continue to be the place for holding such elections under this Act in such Township until it shall be otherwise appointed by the Municipality thereof by any By-law or By-laws to be passed for that purpose: Provided always nevertheless, firstly, that it shall not be lawful in any such By-law to appoint such place of election within the limits of any Incorporated Village, Town or City, or the liberties thereof; and provided also, secondly, that when the place at which the last Township meeting shall have been held previous to the passing of this Act, shall be within the limits or liberties of any City, Town or Incorporated Village within the meaning of this Act, it shall be the duty of the Municipal Council of the District wherein the same is situated at such special meeting as aforesaid, to appoint by By-law some place within such Township and without the limits of such City, Town or Village for the holding of the first election of Township Councillors for such Township under this Act.

As to elections in Townships not divided into Rural Wards.

Proviso as to places of election.

Proviso: if the last election was in a City, &c.

XX. And be it enacted, That in all cases in which the election of Councillors for any such Township shall be by general vote of the whole Township at a general Township meeting as aforesaid, and not by Ward elections as hereinbefore provided for, the Township Clerk for such Township, whether appointed under this Act or before the passing thereof, shall be the Returning Officer for holding such election.

Who shall be Returning Officer in such case.

XXI. And be it enacted, That on the first Monday in January, in the year of our Lord, one thousand eight hundred and fifty, and on the first Monday in the same month, in each succeeding year, there shall be held an election either by general Township

Election of Township Councillors when to be held.

Township meeting or by Wards for Township Councillors for each Township in Upper-Canada.

Production of a copy of the Roll of freeholders and householders by Township Collector.

Attestation of such copy.

Proviso as to parties occupying portions of a house.

Proviso as to qualification of an elector.

Five Councillors to be elected annually.

Place and time of meeting of newly elected Municipality.

Election of a Townreeve.

XXII. And be it enacted, That it shall be the duty of the Collector for the Township, who shall be in office at the time of any such election, whether appointed under this Act or before the passing thereof, to produce at the opening of every such election for a Township or for any Ward thereof, either by himself or by some other person, a fair copy of the Collector's Roll made up next before such election, so far as such Roll contains the names of the freeholders and householders of such Township, if the election shall be by general Township Meeting; or so far as such Roll contains the names of the freeholders and householders of the Ward for which such election is held, if the election be for a Ward of such Township; with the amount of the assessed value of the real property for which they shall be respectively assessed on such Roll, which said copy shall be verified by affidavit or affirmation of such Collector, appended to or endorsed upon such copy, and sworn or affirmed before any Justice of the Peace for the County, to the effect that the same is a true copy of such Roll, so far as the same relates to the place for which such election is to be held, and that it contains the names of all the freeholders and householders in such Township, if such election be by general Township Meeting, or of such Ward, if the election be for a Ward of such Township, and the amount for which they shall have been assessed, as entered upon such Roll as aforesaid; and the persons entitled to vote at such election, shall be those whose names are upon the said copy of such Roll, thus verified, and who at the time of the election shall be resident in such Township or Ward, of such Township, as the case may be: Provided always nevertheless, firstly, that the holder or occupier of any separate portion of a house having a distinct communication with a road or street, by an outer door, shall be considered a householder within the meaning of this Act, in case he shall be assessed therefor as a house upon such Collector's Roll as aforesaid: Provided also, secondly, that no person shall be qualified to be elected as a Township Councillor at any such election who shall not have been entered upon the said Roll as assessed for rateable real property held in his own right or that of his wife, as proprietor or tenant, to the value of one hundred pounds of lawful money of Canada.

XXIII. And be it enacted, That at each of the said yearly Township elections, there shall be elected either by a general township vote or by Wards, five Councillors for the Township, who shall hold office until the third Monday in January, in the year next after that for which they shall have been elected.

XXIV. And be it enacted, That the Township Clerk, whether appointed under this Act or before the passing thereof, or in case of there being no such Township Clerk, then any one of the Councillors returned at such Election shall, when no place is appointed for that purpose by By-law of the Municipality of such Township, appoint the place for the first meeting of the newly Elected Municipality after such Election, which meeting shall be held on the second Monday next after such Election, or if not held on that day, then on some day thereafter, of which appointment he shall give notice to the Members or other Members of the Municipality; and at such first meeting the Councillors shall proceed to elect from amongst themselves a Townreeve, and in Townships which shall have five hundred resident freeholders and householders on the Collector's Roll as aforesaid, one Deputy-Townreeve for such Township for such year.

XXV. And be it enacted, That the said Township Municipalities shall and may severally adjourn their meetings, from time to time, at their pleasure, and the Townreeve, or in case of his death or absence, the Deputy Townreeve, shall have power at any time to summon a special meeting thereof.

Adjournment
of meetings.

XXVI. And be it enacted, That the meetings of each Township Municipality shall be held at such place within the Township as they shall themselves from time to time appoint by adjournment or by any By-law to be passed for that purpose.

Meetings to be
held in such
places as
Municipality
shall appoint.

XXVII. And be it enacted, That the Townreeve shall preside at all meetings of the Township Municipality, or in his absence the Deputy-Townreeve when there is one, except only when there shall be no Townreeve or Deputy-Townreeve, in which case some other member of such Municipality to be appointed by them for that purpose, shall preside in such Municipality.

Who shall
preside at
Meetings.

XXVIII. And be it enacted, That the Municipality for each Township shall, so soon as conveniently may be after their own election or appointment, nominate and appoint three Assessors for the Township and one Collector for the same; and that the said Assessors and Collector shall hold office from the time of their appointment respectively, until the third Monday in January of the year next after their appointment as aforesaid, and until the Municipality of such Township shall appoint new Assessors or a new Collector in their place, or in the place of any one of them, and in case of a vacancy in the office of any Assessor or Collector by death or removal of residence from the Township, the Township Municipality shall fill up the vacancy by a new appointment, at its then next meeting, or as soon thereafter as conveniently may be.

Appointment
of Assessors
and Collectors.
Term of office.

As to vacan-
cies.

XXIX. And be it enacted, That the Municipality of each Township shall, upon the Report of the Auditors of the Township, finally audit and allow all accounts chargeable against the Township, and in case any such charges shall not be specially regulated by law, it shall be their duty to allow for the same such sums as may be just and reasonable, and they shall in like manner also audit and allow the accounts of the Township Treasurer and of the Township Collector, except so far as respects any County Rate collected by such Collector.

Audit of
accounts.

Exception.

XXX. And be it enacted, That the boundary lines of the different Townships in Upper Canada shall hereafter be ascertained and established upon a permanent footing under the authority of an Act of the Parliament of that Province, passed in the thirty-eighth year of the Reign of His late Majesty King George the Third, intituled, *An Act to ascertain and establish on a permanent footing the Boundary Lines of the different Townships of this Province*, or under the authority of any Act of the Parliament of this Province, to be passed in the present or any future session of Parliament for that purpose, upon the application of the Municipality of each Township respectively, or as such other Act may direct, and not upon that of the Quarter Sessions of the Peace, as required by such first mentioned Act: Provided always, nevertheless, that no application of freeholders shall be necessary to enable such Municipality to make the necessary application for such purpose.

Boundary
lines of Town-
ships to be
permanently
established,
and how.

Act of U. C.
35 G. 3. c. 1.

Proviso.

Municipalities to make By-laws for certain purposes.

XXXI. And be it enacted, That the Municipality of each of the Townships in Upper-Canada, shall have power and authority to make a By-law or By-laws for each, all or any of the following purposes, that is to say :

Purchase of real property.

Firstly. For the purchase and acquirement of all such real and personal property within the Township as may be required for the use of the inhabitants thereof as a Corporation, and for the sale and disposal of the same, when no longer required.

Town Hall.

Secondly. For the erection, security, preservation, improvement or repair of a Town Hall, and of all other houses and buildings required by or being upon any land acquired by or belonging to such Township as a Corporation.

School House.

Thirdly. For the purchase and acquirement of such real property as may be required for Common School purposes, for building Common School Houses, and for the sale and disposal of the same when no longer required, and providing for the establishment and support of Common Schools according to Law.

Public Pounds.

Fourthly. For the erection and establishment of one or more Public Pounds in such Township, and settling the Fees to be taken by Pound-Keepers.

Pound-keepers, Fence-Viewers and other Township Officers.

Fifthly. For the appointment, under the Corporate Seal of such Township, of a sufficient number of Pound-Keepers, Fence-Viewers, Overseers of Highways, Road Surveyors, and of such and so many other Officers as may be necessary for carrying into effect any of the provisions of this Act, or of any other Act of the Legislature of this Province, or of the late Province of Upper Canada, or of any By-law or By-laws of the Municipality of such Township, and in like manner to displace all or any of them and appoint others in their room, and to add to or diminish the number of them or any of them as often as the said Corporation shall see fit.

Duties of Township Officers.

Sixthly. For regulating and prescribing the duties of all Officers acting under the authority of the Corporation of such Township, and the penalties on their making default in the performance of such duties.

Their remuneration.

Seventhly. For settling the remuneration of all Township Officers in all cases where the same is not or shall not be settled by Act of the Legislature, and for providing for the payment of the remuneration by such Act of the Legislature or by the By-laws of the said Municipality provided and appointed for all Township Officers whatsoever.

Bonds, &c., to be given by them.

Eighthly. For regulating the bonds, recognizances or other securities to be given by all Township Officers for the faithful discharge of their duties; for inflicting reasonable penalties for refusing to serve in any Township Office, and for the infringement of any and every By-law of the Municipality of the Township.

Drains and water courses.

Ninthly. For the erection, construction or repair of such drains and water-courses as the interests of the inhabitants of such Township shall in the opinion of the Municipality require to be so erected, constructed or repaired at the public expense of such Township.

Tenthly.

Tenthly. For the opening, constructing, making, levelling, pitching, raising, lowering, gravelling, macadamizing, planking, repairing, planting, improving, preserving and maintaining of any new or existing highway, road, street, side-walk, crossing, alley, lane, bridge or other communication within such Township, and for the stopping up, pulling down, widening, altering, changing or diverting of any such highway, road, street, side-walk, crossing, alley, lane, bridge, or other communication within the same : Provided always, nevertheless, that no such new, widened, altered, changed or diverted highway, road, street, side-walk, crossing, alley, lane, bridge or other communication, shall be laid out so as to run through or encroach upon any dwelling-house, barn, stable, or outhouse or any orchard, garden, yard or pleasure ground, without the consent in writing of the owner thereof.

Highways,
Roads, &c.,Proviso as to
encroachments
on certain
kinds of pro-
perty.

Eleventhly. For providing, that on each side of any highway, which shall pass through a wood, the timber shall be cut down for a space not exceeding twenty-five feet on each side of such highway, by the proprietor of the land on which such timber shall be, or in his default by the overseer of highways or other officer in whose division such land shall lie, such timber to be removed by the proprietor within a time to be appointed by the By-law, or in his default by such overseer of highways or other officer, in which last mentioned case it may be used by the overseer or other officer as aforesaid, for any purpose connected with the improvement of the highways and bridges in his division, or sold by him to defray the expenses incurred in carrying the By-law into effect; Provided always, that no such By-law shall authorize or compel the cutting down of any orchard or shrubbery, or of any trees planted expressly for ornament or shelter.

Highways
passing
through
woods.Proviso as to
orchards, &c.

Twelfthly. For the protection and preservation of any timber, stone, sand or gravel, growing or being upon any allowance or any appropriation for any public road or roads within such Township, and for the sale of any timber growing or being upon any road allowance, if thought proper, by the Council.

Protection of
timber, stone,
sale of timber,
&c.

Thirteenthly. For regulating the driving and riding on or over any bridge erected or to be erected within such Township.

Driving over
bridges.

Fourteenthly. For regulating inns, taverns, ale houses, victualling houses, ordinaries, and all houses where fruit, oysters, clams, victuals or spirituous liquors, or any other manufactured beverage may be sold, to be eaten or drank therein, and all other places for the reception and entertainment of the public within the jurisdiction of the Corporation of such Township, and to limit the number of them, and in all cases when there exists no other provision by law for the licensing of such houses, to provide for the proper licensing of the same, at such rates as to the Corporation of such Township may seem expedient; the proceeds of such license, in cases not otherwise appropriated by law, to form part of the public funds of such Township, and to be disposed of as the said Corporation may consider advisable.

Inns, taverns,
victualling
houses, &c.Licensing in
certain cases.

Fifteenthly. For making regulations as to pits, precipices, and deep waters, or other places dangerous to travellers.

Pits, preci-
pices, &c.

Sixteenthly. For granting money to the Municipal Council of the County in which such Township shall be situate, or to that of any adjoining County, to aid in the making, opening, building, maintaining, widening or improving any highway, road, street, bridge

Granting of
money for im-
proving roads,
&c.

or

or communication lying between such Township and any other Township in the same or any adjoining County, or in the making, opening, building, maintaining, widening or improving any highway, road, street, bridge or communication within such Township, assumed by the Municipal Council of the County as a county work, or agreed to be assumed by such Municipal Council on the condition of such grant.

Joint Stock
Road Compa-
nies, &c.

Seventeenthly. For regulating the manner of granting to associated Joint Stock Road or Bridge Companies, permission to proceed with any Roads or Bridges within the jurisdiction of such Municipality, and the manner of afterwards ascertaining and declaring according to law the completion of the works undertaken by such Companies respectively, so as to entitle such Incorporated Companies to levy tolls upon such works, and of all examinations, enquiries and investigations necessary for the proper, efficient and judicious exercise of such power.

Taking Stock
in Road or
Bridge Com-
panies.

Eighteenthly. For taking stock in or lending money to any incorporated Road or Bridge Company to which such Municipality shall have granted a license to proceed with such work in accordance with the requirements of the Statute in that behalf, or in or to any other such incorporated Road or Bridge Company, in whose Road or Bridge the inhabitants within the jurisdiction of such Municipality shall, in the opinion of such Municipality, be sufficiently interested to warrant them in taking such stock or lending such money for the advancement of such enterprize. All dividends, interest and proceeds to arise or be received from such stock or loan being at all times applicable to the general purposes of such Municipality, and to go in reduction of the rates required to be levied for such purposes.

As to divi-
dends, interest,
&c.

Nineteenthly. For restraining and regulating the running at large of horses, cattle, sheep, goats, swine, and other animals, geese, turkeys and other poultry, and to impound or provide for the impounding of the same, and for fixing the periods of the year during which such animals or poultry shall be permitted to run at large, and those during which they shall be restrained from doing so.

Running at
large of ani-
mals.

Tax on Dogs.

Twentiethly. For imposing a tax on the owners, possessors or harbourers of dogs; for regulating the manner in which such dogs may be allowed to run at large, or for preventing such dogs from being allowed to run at large at improper times, and for killing and destroying such as are found running at large contrary to such By-law.

Destroying
Dogs.

Destruction of
weeds.

Twenty-firstly. For the destroying or suppressing the growth of weeds detrimental to good husbandry.

Exhibitions,
puppet shows,
wild animals,
&c.

Twenty-secondly. For preventing, restraining or regulating exhibitions of wax figures, wild animals, puppet shows, wire-dancing, circus-riding, and other idle acts or feats which common showmen, circus-riders, mountebanks or jugglers usually exhibit, practice or perform, and requiring the payment of a sum not exceeding five pounds to the Township Treasurer before any and every such exhibition shall be allowed to be held or to take place; for imposing a fine upon the proprietors or persons in charge of such exhibition, in case they shall exhibit without such payment, and for the levying thereof by summary distress to be levied upon the goods and chattels of such showmen, or belonging to such exhibition, whether the owners shall be known or not, or for the imprisonment of the parties offending, for any time not exceeding one calendar month,

Fines for ex-
hibiting con-
trary to such
By-laws.

and

and for the appropriation of such sums as may be received or recovered under any regulation or By-law to be passed for that purpose.

Twenty-thirdly. For appraising the damages to be paid by the owners of horses, cattle and other animals trespassing, contrary to the By-laws or regulations of such Township. Damages payable by owners of animals trespassing.

Twenty-fourthly. For causing such horses, cattle or other animals as shall be impounded, to be sold, in case the same are not claimed within a reasonable time, or in case the damages, fines and expenses shall not be paid according to such By-laws or regulations. Sale of animals impounded.

Twenty-fifthly. For settling the height and description of lawful fences. Height and description of fences.

Twenty-sixthly. For procuring, in case the same hath not been already done, the ascertaining and establishment by public authority according to law, of the boundary lines of such Township, and providing for the periodical inspection and preservation of the durable monuments by law required to be erected for evidencing the same, and for procuring the necessary estimates, and making the necessary application for the same according to law. Establishment of boundary lines.

Twenty-seventhly. For empowering the landholders in such Township, to compound for the Statute labour by them respectively performable, for any term not exceeding five years, at any rate not exceeding two shillings and six pence for each day's labour, and at any time before the labour compounded for ought to be performed, and by any such regulations to direct to what officer in each Township such composition money shall be paid, and how such money shall be applied and accounted for, and to regulate the manner and the divisions in which the Statute labour shall be performed. Compounding for Statute labour.

Twenty-eighthly. For enforcing the performance of Statute or Road labour, or payment of a commutation in money therefor. Enforcing Statute labour.

Twenty-ninthly. For the imposing and collecting by distress and sale of the goods and chattels of the offender or offenders reasonable penalties and fines not exceeding in any case five pounds currency, and reasonable punishment by imprisonment, not exceeding twenty days, for the breach of all or any of the By-laws or regulations of such Municipality. Fines and penalties.

Thirtiethly. For borrowing under the restriction, and upon the security hereinafter mentioned, all such sums of money as shall or may be necessary for the executing of any Township public work within their jurisdiction, and the scope of the authority by this Act conferred upon them. Borrowing moneys.

Thirty-firstly. For raising, levying, collecting and appropriating such moneys as may be required for all or any of the purposes aforesaid, either by way of tolls to be paid on any Township bridge, road, or other township work, to defray the expense of making, repairing or maintaining the same, or by means of a rate or rates to be assessed equally on the whole rateable property of such Township, liable to assessment according to any law which shall be in force in Upper-Canada, concerning rates and assessments. Raising and levying moneys.

Thirty-secondly.

Local regula-
tions not con-
trary to law.

Thirty-secondly. For making such other local regulations not contrary to any law of this Province, or to any By-law of the Municipal Council of the County within which such Township shall lie, and which shall by law extend to and be in force within such Township, as the good of the inhabitants of such Township may in their opinion require.

Repeal, &c., of
By-laws.

Thirty-thirdly. For the repeal, alteration or amendment, from time to time, of all or any of such By-laws, and the making others in lieu thereof, as to them may seem expedient for the good of the inhabitants of such Township.

II. COUNTIES.

Counties
incorporated.
Corporate
powers.

XXXII. And be it enacted, That the inhabitants of each and every County in Upper Canada, shall be a Body Corporate, and shall have perpetual succession and a Common Seal, with power to break, renew or alter the same at pleasure, and shall be capable of suing and being sued, of pleading and being impleaded, in all courts and places whatsoever,—of purchasing, acquiring and holding lands and tenements and other real and personal property within such county, for the use of the inhabitants thereof in their corporate capacity,—and of making and entering into such contracts as may be necessary for the exercise of their corporate functions, and that the powers of the Corporation shall be exercised by and through and in the name of the Municipal Council of such County.

How exer-
cised.

Townreeves of
Townships
and Deputies,
&c., to form the
Municipal
Council of
such County.

XXXIII. And be it enacted, That the Townreeves and Deputy-Townreeves of the several Townships, Villages and Towns within each County shall constitute the Municipal Council for such County.

Meetings of
County Muni-
cipal Councils.

XXXIV. And be it enacted, That the Municipal Council of each County shall meet at the Shire Hall, if there be one, or otherwise at the County Court House annually, on the fourth Monday in January, or if not on that day, then on some day thereafter, and their meeting may be adjourned from time to time, and to the same place, or to any other place within the County, or any City lying within the boundaries of such County, although such City may be a County in itself for municipal or other purposes, or within the liberties of any such City, and any Municipal Council may hold special meetings, (to be summoned at any time by the County Warden) at the place where the then last meeting of such Council shall have been held; and such special meetings may be adjourned from time to time, and to the same place, or to any other place within the County as aforesaid.

As to Cities.

Special Meet-
ings.

Election of
County
Warden.

XXXV. And be it enacted, That the Municipal Council of each County shall, at their first meeting on or after the fourth Monday in January in each year, choose from amongst themselves a County Warden, who shall thenceforth preside at all meetings of such Municipal Council.

Keeping and
repairing of
Shire Hall,
&c., to be
charged upon
each County.

XXXVI. And be it enacted, That the keeping and repairing of the Shire Hall, County Court House and Gaol, and of any House of Correction that may be erected and established by the Municipal Council, shall be charged upon each County in Upper-Canada, and it shall be the duty of the Municipal Council to cause the same to be repaired and kept in repair at the expense of the County, and to raise by rate upon the
County

County all sums of money which shall be necessary for such purposes, and for every other purpose, the expense whereof shall be by law chargeable upon the County.

XXXVII. And be it enacted, That whenever any new or existing highway, road, street, bridge or other communication within any Township, shall by any By-law of the Municipal Council of the County in which such Township is situate, be assumed by such Municipal Council as a County road or bridge as being one in which more than one Township or the whole County is interested, it shall be the duty of such Municipal Council, and they are hereby required with as little delay as reasonably may be, and at the expense of the County, to cause such road to be planked, gravelled or macadamized, or such bridge to be built in a good and substantial manner, and from the time of the passing of the By-law assuming such road or bridge as a County work as aforesaid, and so long as the same shall remain unrepealed, the Municipalities of the Townships in which such road or bridge shall be situate, shall cease to have any jurisdiction or control over the same or any part thereof as respects the making, maintaining or improving the same, or the stopping up, altering or diverting the same, or the protection or preservation of any timber, stone, sand or gravel growing or being thereon, or the regulating the driving or riding thereon, or other use thereof: Provided always, nevertheless, that the mere laying out of County money upon any road lying between any two or more Townships for the improvement thereof, or exercising the other powers by this Act conferred upon them with respect to such line roads, shall not be deemed an assumption of the same as County roads, so as to render it obligatory upon the said County, to cause the same to be planked, graveled or macadamized as hereinbefore provided, and this notwithstanding that the line of such roads may occasionally deviate from its course between such Townships, or any two of them, so as in some places to lie wholly or in part within one of such Townships only.

Duty of Council with respect to properly repairing highways, bridges, &c., assumed as County Roads or Bridges, &c.

Powers of Minor Municipalities to cease as to the same.

Proviso: certain improvements not to constitute such assumption.

XXXVIII. And be it enacted, That all roads and bridges running, lying or being between different Townships, situate in the same County, shall be exclusively within the jurisdiction and subject to the control of the Municipal Council of such County as far as respects the making, maintaining or improving the same, or the stopping up, altering or diverting the same, or the protection and preservation of any timber, stone, sand or gravel growing or being thereon, or the regulating, the driving or riding thereon, or other use of the same, and this notwithstanding that the line of such road or bridge shall or may occasionally deviate from its course between such Townships, and in some parts thereof may lie wholly within one of such Townships.

Roads and Bridges between different Townships to be under jurisdiction of Counties through which they run.

XXXIX. And be it enacted, That all roads and bridges running, lying or being between different Counties or between a County and a City lying within the boundaries of such County or on the bounds of a Town or Incorporated Village within such County, shall be within the jurisdiction and subject to the control of the Municipal Corporations of both such Counties, or of such County and City or Town and Village as far as respects the making, maintaining or improving the same, or the stopping up, altering or diverting the same, or the protection of any timber, stone, sand or gravel growing or being thereon, or the regulating the driving or riding thereon, or other use of the same, and this notwithstanding that the line of such road or bridge shall or may occasionally deviate from its course between such Counties or such County and City, or along the bounds of such Town or Village, and in some parts thereof lie wholly within one or the other of such Counties, City, Town or Village, and no By-law to be passed by any of such

Roads and Bridges between two Counties, &c., to be under the jurisdiction of both.

As to By-laws regarding the same.

such Municipal Corporations with respect to any such road or bridge, for any of the purposes aforesaid, shall have any force or effect whatsoever until the passing of a By-law in similar or corresponding terms as nearly as may be by the other of such Corporations.

Audit of accounts chargeable against County.

XL. And be it enacted, That the Municipal Council of each County shall, upon the report of the Auditors of the County, finally audit and allow all accounts chargeable against the County; and in case any such charges shall not be specially regulated by law, it shall be their duty to allow for the same such sums as may be just and reasonable; and they shall in like manner also audit and allow the accounts of the County Treasurer, and of the Collectors of the several Townships within their County, so far as the accounts of such Collectors shall relate to County purposes.

And of Treasurers and Collectors.

Councils may make By-laws for certain purposes.

XLI. And be it enacted, That the Municipal Council of each County shall have power and authority to make a By-law or By-laws for each, all or any of the following purposes, that is to say:

Purchase of real property.

Firstly. For the purchase and acquirement of all such real and personal property, within the County, as may be required for County purposes, and for the sale and disposal of the same when no longer required

Erection, &c., of Shire Hall and other county buildings.

Secondly. For the erection, preservation, improvement or repair of a Shire Hall, Court House, Gaol, House of Correction, House of Industry, and of all other Houses and other buildings required by or being upon any land acquired by or belonging to such County as a Corporation.

Erection, &c., of land for School Houses, &c.

Thirdly. For the purchase and acquirement of such real property as may be required for County Grammar School purposes, and for the erection, preservation, improvement and repair of County School Houses for the use of Grammar Schools in such parts of the County, or within any City or the liberties thereof, lying within the boundaries of such County, as the wants of the people most require, for the sale and disposal of the same when no longer required, and for making such provision in aid of such Grammar Schools as they may deem expedient for the advancement of education in the same.

Making a provision for the expenses of Pupils attending in the University of Toronto, &c., whose parents are unable to incur such expenses.

Fourthly. For making some permanent provision for defraying, out of the public funds of such County, the expense of the attendance at the seat of the University of Toronto, and of that of Upper-Canada College, and Royal Grammar School there, of such and so many of the Pupils of the different public Grammar Schools of such County, as shall be desirous of, and in the opinion of the respective Masters of such Grammar Schools shall be of competent attainments for entering into competition for any of the Scholarships, Exhibitions or other similar Prizes offered by such University or College to competition amongst such Pupils, but which Pupils from the inability of their Parents or Guardians to incur the necessary expense of such attendance, might otherwise be deprived of the opportunity of competing for the same.

Endowment of Fellowships in the University of Toronto, &c.

Fifthly. For the endowment of such and so many Fellowships, Scholarships, Exhibitions and other similar Prizes in the University of Toronto, or in Upper-Canada College and Royal Grammar School there, to be open to competition amongst the Pupils of the different public Grammar Schools of such County, as they shall deem expedient for the encouragement of Learning amongst the youth of such County.

Sixthly.

Sixthly. For the appointment of the Inspectors of the County House of Industry and of such and so many Officers as may be necessary for carrying into effect any of the provisions of this Act, or of any other Act of the Legislature of this Province, or of the late Province of Upper Canada, the erection or maintenance of such Houses of Industry or of any By-law or By-laws of the Municipal Council of such County respecting the same.

Appointment
of Inspectors of
House of
Industry.

Seventhly. For the settling the remuneration to all County Officers in all cases where the same is not or shall not be settled by Act of the Legislature, and for providing for the payment of the remuneration by such Act of the Legislature or by the By-laws of the said Municipal Council provided and appointed for all County Officers.

Remuneration
of County
Officers.

Eighthly. For regulating all Ferries between any two places in such County, and for establishing the rates of pay or hire to be taken by the owners or conductors of the boats or vessels employed on such Ferries, but no By-law for any such purpose shall have any force or effect until the same shall have been assented to by the Governor of this Province in Council.

Regulation of
ferries, &c.

Proviso.

Ninthly. For settling and paying a rate at which the Townreeves and Deputy-Townreeves forming such Municipal Council shall be remunerated for their attendance at such Council: Provided always, nevertheless, that no By-law to be passed for this latter purpose after the year of our Lord, one thousand eight hundred and fifty, shall be valid, unless the same shall by the terms of it be limited to take effect two whole years at least from the passing thereof.

Remuneration
of Town-
reeves.

Proviso as to
commence-
ment of such
By-law.

Tenthly. For the erection, construction or repair of such drains and water courses as the interests of the inhabitants of such County at large shall in the opinion of the Municipal Council require to be so erected, constructed or repaired at the public expense of such County.

Erection, &c.,
of drains.

Eleventhly. For the opening, constructing, making, levelling, pitching, raising, lowering, gravelling, macadamizing, planking, repairing, planting, improving, preserving and maintaining of any new or existing highway, road, street, side-walk, crossing, alley, lane, bridge or other communication running, lying or being within one or more Townships or between two or more Townships of such County, or between such County and any adjoining County or City, or on the bounds of any Town or Incorporated Village lying within the boundaries of such County, as the interests of the inhabitants of such County at large shall in the opinion of the Municipal Council require to be so opened, constructed, made, widened, changed, diverted, levelled, pitched, raised, lowered, gravelled, macadamized, planked, repaired, planted, improved, preserved or maintained at the public expense of such County; and for entering into, performing and executing any arrangement or agreement with the Municipal Corporation of any such adjoining County or Counties, City or Cities, or of any such Town or incorporated Village as aforesaid, for the execution of any such work at the joint expense and for the joint benefit of the Municipal Corporation of such Counties, Cities, Towns or Villages and the people they represent respectively; and for the stopping up, pulling down, widening, altering, changing or diverting of any such highway, road, street, bridge or communications within the same; Provided always, nevertheless, that no such new, widened, altered, changed or diverted highway, road, street, side-walk, crossing, alley, lane, bridge or other

Opening, ma-
king and re-
pairing of
roads, &c.

Agreeing
with Muni-
cipalities as to
such work.

Proviso as to
encroachments
on certain

kinds of property.

other communication, shall be laid out so as to run through or encroach upon any dwelling house, barn, stable or outhouse, or through any orchard, garden, yard or pleasure ground, without the consent in writing of the owner thereof.

Protection of timber, &c.

Twelfthly. For the protection and preservation of any timber, stone, sand or gravel growing or being upon any allowance or appropriation for any of such County roads.

Regulation of driving on Bridges.

Thirteenthly. For regulating the driving and riding on or over any County bridge erected or to be erected under the authority of such Municipal Council.

Prevention of immoderate driving on Highways, &c.

Fourteenthly. For preventing the immoderate riding or driving of horses or cattle in any of the public highways in such County, whether such highways be Township or County roads.

Regulations as to Pits, &c., near Roads.

Fifteenthly. For making regulations as to pits, precipices and deep waters or other places dangerous to travellers in the immediate neighbourhood of any County, Road or Bridge.

Granting loans to Towns, Townships, &c., in the County.

Sixteenthly. For granting to any Town, Township or Village, in such County, by way of loan or otherwise, such sum or sums of money in aid of such other moneys as may be raised by the Municipal Corporation of such Town, Township or Village, or by voluntary subscription, for or towards the making, opening or erecting of any new road or bridge in such Town, Township or Village, in cases where such Municipal Council shall deem such Town, Township or Village work of sufficient importance to justify the affording such assistance to it, with a view to the general interest possessed by the County at large in such Town, Township or Village, and yet where such work is not of a character, in their opinion, to justify them, in at once assuming the same as a County work to be executed wholly at the expense of the County at large.

Attaching Townships to others.

Seventeenthly. For attaching any new Township or Townships within such County not having a sufficient population for a separate Municipal organization of their own under the provisions of this Act, to such of the older Townships of such County as they shall deem best for the convenience of the inhabitants of such new Township or Townships, and for thus forming them into a Union of Townships for the purpose of such Municipal organization.

Granting licenses to Road or Bridge Companies.

Eighteenthly. For regulating the manner of granting to associated Joint Stock Road or Bridge Companies, licenses to proceed with any roads or bridges within the jurisdiction of such Municipal Council, and the manner of afterwards ascertaining and declaring according to law the completion of the works undertaken by such Companies respectively, so as to entitle such Incorporated Companies to levy tolls upon such works, and of all examinations, enquiries and investigations necessary for the proper, efficient and judicious exercise of such power.

Taking Stock in Road or Bridge Companies.

Nineteenthly. For taking stock in or lending money to any Incorporated Road or Bridge Company to which such Municipal Council shall have granted a license, to proceed with such work in accordance with the requirements of the Statute in that behalf, or in or to any other such Incorporated Road or Bridge Company in whose road or bridge the inhabitants within the jurisdiction of such Municipal Council shall
in

in the opinion of such Municipal Council be sufficiently interested to warrant them in taking such stock or lending such money for the advancement of such enterprize; all dividends, interests and proceeds to arise or be received from such stock or loan being at all times applicable to the general purposes of such Municipal Council, and to go in reduction of the rates required to be levied for such purposes.

As to Dividends, interest, &c.

Twentiethly. For the imposing fines not exceeding in any case ten pounds, currency, for the breach of all or any of the By-laws or Regulations of such Municipal Council.

Fines.

Twenty-firstly. For borrowing under the restriction and upon the security hereinafter mentioned, all such sums of money as shall or may be necessary for the execution of any County work within their jurisdiction and the scope of the authority by this Act conferred upon them.

Borrowing moneys.

Twenty-secondly. For raising, levying, collecting and appropriating such moneys as may be required for all or any of the purposes aforesaid, either by way of tolls to be paid on any County Bridge, road or other public work, to defray the expense of making, repairing or maintaining the same, or by means of a rate or rates to be assessed equally on the whole rateable property of such County liable to assessment, according to any law which shall be in force in Upper Canada concerning Rates and Assessments.

Levying moneys.

Twenty-thirdly. For the repeal, alteration or amendment from time to time of all or any of such By-laws, and the making others in lieu thereof as to them may seem expedient for the good of the inhabitants of such County.

Repealing or amending By-laws.

III. POLICE VILLAGES.

XLII. And be it enacted, That it shall and may be lawful for the Municipal Council of any County, by By-law to be passed upon the petition of any number of the inhabitants of any unincorporated Village or Hamlet, situate in such County, or for the Municipal Councils of any two or more Counties, upon any such petitions from the inhabitants of any unincorporated Village or Hamlet situate partly within one of such Counties and partly within another or others of them, to define the limits within which in respect to such Village or Hamlet there is, in the opinion of such Municipal Council or Municipal Councils, a resident population sufficient to make it expedient that the provisions of this Act for the regulation and Police of unincorporated Villages should be applied to such Village or Hamlet, and in every such By-law such Municipal Council or Councils, shall fix the place in such Village or Hamlet, where the first annual election of Police Trustees, under the authority of this Act, shall be held for such Village, the person who shall preside at such meeting, and the hour at which such meeting shall be opened for that purpose.

County Municipal Councils may define limits of villages, &c.

And fix place of first election, &c.

XLIII. And be it enacted, That on the second Monday in January next after the end of three calendar months from the passing of such By-law or By-laws, as the case may require, and annually, on the second Monday of January in each and every year thereafter, until such Village shall be incorporated under the provisions of this Act, it shall and may be lawful for the resident freeholders and householders of such unincorporated Village to assemble at the time and place appointed for that purpose, and to proceed to elect from among themselves three Police Trustees for such Village, which

Meeting for election of Police Trustees.

three

Appointment
of Inspecting
Trustee.

three Trustees, or any two of them, by a Memorandum in writing under their hands to be filed with the Township Clerk of the Township in which such Village is situate, or when such Village is situate within two or more Townships, then to be filed with the Township Clerk of some one of such Townships, shall, within a reasonable time after the election, nominate and appoint one of their number to be the Inspecting Trustee of such Village.

Township
Collector to
deliver a copy
of the roll of
freeholders
and house-
holders to the
person presi-
ding at the
election.

Attestation of
such copy.

XLIV. And be it enacted, That it shall be the duty of the Collector and Collectors of the Township or Townships within which such unincorporated Village shall be situate, whether appointed under this Act or before the passing thereof, to deliver to the person appointed to preside at any such election, or to any person by him appointed to receive the same, a fair copy of the Collector's Roll made up next before such election, so far as such Roll contains the names of the resident freeholders and householders of such unincorporated Village, with the amount for which they shall be assessed upon such Rolls; which copy shall be verified by affidavit or affirmation appended to, or endorsed upon such copy, and sworn or affirmed before any Justice of the Peace for the County, to the effect, that the same is a true copy of such Roll, so far as relates to the unincorporated Village for which such election is to be held, and that it includes the names of all the resident freeholders and householders in such unincorporated village, and the amount for which they shall have been assessed as entered upon such Roll, and the persons entitled to vote or be elected at such election shall be those whose names are upon the said Roll or Rolls thus verified, and who shall continue at the time of the election to be resident in such Village: Provided always, firstly, that the holder or occupier of any separate portion of a house having a distinct communication with a road or street, by an outer door, shall be considered a householder within the meaning of this Act in case he shall be assessed therefor, as a house upon such Collector's Roll or Rolls as aforesaid: And provided also, secondly, that no person shall be qualified to be elected at any such election of Trustees who shall not have been entered upon such Roll or Rolls as aforesaid, for rateable property held in his own right or that of his wife as proprietor or tenant, to the value of one hundred pounds of lawful money of Canada.

Proviso as to
Tenants of
parts of hou-
ses.

Proviso as to
qualification of
electors.

Appointment
of persons to
preside at
annual elec-
tions.

XLV. And be it enacted, That at every subsequent annual election of Police Trustees for such unincorporated Village after the first, the person to preside at such election, and the hour at which the same shall commence, shall be appointed by the Trustees for the preceding year or any two of them under their hands, of which due notice shall by them be given by written or printed notices thereof, to be put up in at least three of the most public places in such unincorporated Village.

Provision in
case of absence
of person ap-
pointed to
preside at
election.

XLVI. And be it enacted, That if at the time and place appointed for any first or subsequent election of Trustees, for any such unincorporated Village, the person appointed to preside thereat shall not attend within one hour after the time appointed for commencing the proceedings, the resident inhabitant freeholders and householders of such Village, or a majority of them may, if they think proper, proceed to nominate a person to preside at such meeting, and the election of Trustees for such year shall be held by such person, as if he had been the person appointed by the Municipal Council of the County or by the Trustees for the preceding year as aforesaid.

Provision in
case of vacan-
cy among the

XLVII. And be it enacted, That upon the happening of any vacancy by death or otherwise, amongst the Police Trustees of any such unincorporated Village in the course

course of the year for which they shall have been elected, it shall and may be lawful for the remaining Trustee or Trustees by a memorandum in writing, to be filed with such Township Clerk as aforesaid, to supply such vacancy by the appointment of Trustees or a Trustee in their or his place, which Trustees or Trustee so appointed, shall hold his office to the end of the term of office of the person in whose place he shall have been appointed, and no longer, and shall, during the time he shall hold the same, possess all the authority of such person.

Police Trustees.

XLVIII. And be it enacted, That any Inspecting or other Trustee of any of the said unincorporated Villages, who shall wilfully neglect or omit to fulfil any of the duties hereby imposed upon him, or to prosecute any offender against the Regulations of Police hereinafter established, for such unincorporated Villages, at the request of any inhabitant householder, offering to adduce proof of the offence, shall, on being thereof convicted in manner hereinafter provided, incur a penalty of twenty shillings, currency.

Penalty against Trustees for neglect of duty.

XLIX. And be it enacted, That the penalties prescribed in and by the next immediately preceding section of this Act, or under that for the establishment of Regulations of Police for such unincorporated Villages, shall be sued for within ten days after the offence for which they shall have been incurred shall have ceased, and not afterwards.

Penalties to be sued for within a certain time.

L. And be it enacted, That all penalties incurred by any person or persons, under any of the Regulations of Police, by the next succeeding section of this Act, established for such unincorporated Villages, shall be sued for and recovered by the Inspecting Trustee of Police of such Village, or in his absence, or when he shall be the party complained against, then by some other of such Trustees before any one Justice of the Peace having jurisdiction and residing within five miles of such Village, if any there be, or else before any other Justice of the Peace having jurisdiction as such, in such Village, who shall hear and determine such information in a summary manner, and upon the oath or affirmation of one or more credible witnesses, and shall cause such penalty to be levied by distress and sale of the goods of the offender; and the whole of such penalty shall be applied to the repairs and improvement of the streets and lanes of such Village, under the direction of the Police Trustees thereof, and by the Pathmaster or Pathmasters of the division or divisions to which such Village shall belong, to whom or such of them as shall be appointed by such Trustees for that purpose, such penalty shall be paid over for that purpose.

Penalties to be sued for and recovered by Inspecting Trustee.

How levied.
How applied.

LI. And be it enacted, That it shall be the duty of the Police Trustees of every such unincorporated Village to execute and enforce, and cause to be executed and enforced, within the limits of such Village, the Regulations of Police herein and hereby provided and established for all such Villages, that is to say :

Police regulations to be enforced with respect to—

Firstly. All and every the proprietors and proprietor of a house or houses of more than one story in height, in any of the said Villages, shall place or cause to be placed a ladder or ladders on the roof of their respective houses, near to or adjoining the chimney or chimneys thereof, and another ladder reaching from the ground to the roof of each and every of their respective houses as aforesaid, under the penalty of five shillings currency, for every neglect so to do, and of ten shillings currency, for each and every week during which they shall neglect to provide themselves with such ladder or ladders as aforesaid.

Ladders on roofs ;

Secondly.

Buckets ;

Secondly. All and every householder or householders in the said Villages shall be held to furnish and provide himself or themselves with two buckets, fit and proper for carrying water, in case of accidents by fire, under the penalty of five shillings currency, for each bucket which may be deficient.

Bakers, Brew-
ers, &c.

Thirdly. It shall not be lawful for any baker, potter, brewer, manufacturer of pot and pearl ashes, or any other person, to build, make or cause to be built and constructed, any oven or furnace within the limits of any of the aforesaid Villages, unless the same adjoin and be properly connected with a chimney of stone or brick, which chimney shall rise at least three feet higher than the house or building in which the said oven or furnace may be, and three feet higher than any building within one chain of the said oven or furnace, under a penalty which shall not exceed ten shillings currency, and for non compliance with this regulation, the offender shall incur a penalty of fifteen shillings currency, for each week during which he shall neglect to comply therewith.

Stove pipes ;

Fourthly. It shall not be lawful for any person in any of the said Villages to conduct any stove pipe through any wooden or lathed partition or through any floor, unless there be a space of six inches between the pipe and the partition or floor, or the nearest wood-work, and the pipe of every stove shall be inserted into a chimney, and there shall be left at least ten inches in the clear between any stove and any wooden or lathed partitions, or other wood-work, and each and every person offending against this regulation shall incur a penalty of ten shillings currency.

Entering cer-
tain places
with candles,
&c.

Fifthly. Any person or persons who shall enter into any mill, barn, out-house or stable within the limits of any of the said Villages with a lighted candle or lamp, without having the same well inclosed in a lantern, shall for every such offence incur a penalty of five shillings currency, and any person or persons who shall enter into any mill, barn, stable or out-house, within the limits of any of the said Villages with a lighted pipe or cigar, or carry fire not properly secured into such barn, stable or out-house, shall for every such offence incur a penalty of five shillings currency.

Lighting fires
in wooden
houses, &c.

Sixthly. No person or persons shall be allowed to light or have a fire in any wooden house or out-house, of any description, within the limits of any of the said Villages, unless the same be in a brick or stone chimney, or in a stove of iron or other metal, under a penalty of five shillings currency, for each offence.

Using vessels
for conveying
fire ;

Seventhly. All and every person or persons who shall carry or convey fire into or through any street, lane, yard, garden or place, in any of the said Villages, or cause fire to be so carried or conveyed without having the same confined in some copper, iron or tin vessel, shall for every such offence, incur a penalty of two shillings and six pence currency, and for every subsequent offence of a like nature, a further penalty of five shillings currency.

Hay, straw,
&c., in dwell-
ing houses ;

Eighthly. Any person or persons who shall put or cause to be put or placed any hay, straw or fodder, in any dwelling house, within the limits of any of the said Villages, shall incur a penalty of five shillings currency for the first offence, and a penalty of ten shillings currency for every week during which he or she shall neglect to remove the said hay or straw from the said dwelling house.

Ninthly.

Ninthly. All and every person or persons who shall keep or have gun-powder for sale, in any of the said Villages, shall keep the same in boxes of copper, tin or lead; and for every omission or neglect so to do, such person or persons shall incur a penalty of twenty shillings for the first offence, and forty shillings for every subsequent offence.

Keeping of
Gunpowder;

Tenthly. Any person or persons in any of the said Villages, who shall sell or permit gun-powder to be sold at night in his or their houses, store-houses or shops, out-house or other building, shall on being thereof convicted, incur a penalty of forty shillings currency for every first offence, and of sixty shillings currency, for every subsequent offence.

Sale of Gun-
powder at
night;

Eleventhly. Any person or persons who shall in any of the said Villages keep or deposit any ashes or cinders of any kind, (ashes in the possession of manufacturers of pot and pearl ashes excepted,) in any wooden vessel, box or other thing not lined or doubled with sheet iron, tin or copper, so as to prevent all danger of fire or combustion from such ashes or cinders, shall for every such offence incur a penalty of five shillings currency.

Deposit of
Ashes, &c.

Twelfthly. Any person or persons who shall in any of the said Villages place or deposit any quick or unslacked lime in any house, out-house or building, so that such lime may be in contact with or touch any wood thereof, whereby there may be any danger of fire or combustion, shall for every such offence incur a penalty of five shillings currency, and a further penalty of ten shillings currency, for each day until such lime shall be removed or secured, to the satisfaction of such Inspecting Trustee, and in such manner as not to cause any danger of accident by fire.

Quick lime;

Thirteenthly. Any person who shall light a fire in any of the streets, lanes or public places of any of the said Villages, shall for every such offence incur a penalty of five shillings currency.

Lighting fires
in streets;

Fourteenthly. No person or persons shall erect or cause to be erected any furnace for making charcoal of wood within the limits of any of the said Villages, under a penalty of twenty shillings currency.

Charcoal fur-
naces;

Fifteenthly. All and every person or persons who shall throw or cause to be thrown any filth, rubbish or ordure into any of the streets, lanes or public places within the limits of any of the said Villages, shall, for every such offence, incur a penalty of two shillings and six pence currency, and of five shillings currency for every week during which they shall neglect to remove the same, after notification to that effect by the Inspecting Trustee, or some other person authorized by him for that purpose.

Filth, Rub-
bish, &c.

IV. INCORPORATED VILLAGES.

LII. And be it enacted, That the inhabitants of every Village in Upper-Canada mentioned in the Schedule to this Act annexed marked A, and intituled, "Incorporated Villages," and the inhabitants of each and every other Village, Hamlet or place which shall hereafter by Proclamation under the Great Seal of this Province be erected into an incorporated Village in the manner prescribed by this Act, shall be a Body Corporate apart from the Township or Townships in which such Village shall be situate, and as such

Inhabitants of
Villages men-
tioned in Scho-
dule A. In-
corporated.

Corporate powers.

such shall have perpetual succession and a Common Seal, with such powers within the limits of such Village as are by this Act conferred upon the inhabitants of the different Townships in Upper-Canada within the limits of such Townships respectively, and the powers of such Corporation shall be exercised by, through, and in the name of the Municipality of such Village.

Election of Township Councillors, &c.

LIII. And be it enacted, That on the first Monday in January in each year, and in case of Villages hereafter to be erected and incorporated by Proclamation as aforesaid on the first Monday in January next after the end of three calendar months from the *teste* of such Proclamation, and on each succeeding first Monday in January thereafter, there shall be held an election by voters qualified in like manner with the voters at elections of Township Councillors, for five Councillors for each of such Villages; and a Town-reeve for each of the said Villages shall be thereafter elected from amongst the Councillors of such Village, in like manner as Townreeves are appointed by this Act to be chosen or elected for every Township as aforesaid.

Election of a Townreeve.

Appointment of Returning Officer.

LIV. And be it enacted, That in each of the said Villages which has been heretofore incorporated, whether under the name of Town or Village, or for which there have been Police Trustees appointed, the Clerk of the Board of Police or Town Clerk, or the Inspecting Trustee, as the case may be, shall be the Returning Officer for the first election to be held under this Act, and at each succeeding election the Village Clerk of such Village, for the time being, shall be the Returning Officer.

Case in which the Governor may appoint a Returning Officer.

LV. And be it enacted, That in case of an election in any Village where there shall not have been a Clerk of the Board of Police or a Town Clerk, or an Inspecting Police Trustee, or which shall not have been before incorporated, it shall and may be lawful for the Governor of this Province to appoint a Returning Officer to hold the first election for such Village under this Act.

Places of holding election, and notice thereof.

LVI. And be it enacted, That the Returning Officer for every such Village shall appoint the place for holding such Village election, of which appointment he shall give notice, by posting the same at least ten days before the election, in at least three public places in such Village.

Returning Officers to procure copy of Collector's Roll.

LVII. And be it enacted, That it shall be the duty of the Returning Officer, for each of the said Villages, to procure a correct copy of the Collector's Roll for such Village or of the Roll or Rolls for the Township in which such Village is situate, so far as such Rolls or either of them exhibit the names of the freeholders and householders rated upon such Roll or Rolls within the limits of such Village, with the amounts for which they shall be respectively assessed upon such Roll or Rolls, each of which said copies shall be verified in like manner as the copies of Collectors' Rolls produced at the Township elections, as hereinbefore provided: Provided always, that no person shall be qualified to be elected as a Village Councillor who shall not be possessed, to his own use, of real estate held by him in fee or freehold, or for a term of twenty-one years or upwards, of which at least seven years remain unexpired, situate within the Village for which he is elected, of the assessed value of two hundred and fifty pounds, or unless he shall be a tenant from year to year, or for a term of years, of all property within such Village, at a *bonâ fide* rental of twenty pounds per annum or upwards, or shall be in the receipt of twenty pounds or upwards of yearly rent or profit accruing from

Proviso: who may be elected or vote as an elector.

from or out of real property within such Village; and the male inhabitants being either freeholders or householders upon such Roll or Rolls and resident at the time of the election, and who shall appear in the said Roll or Rolls to have been assessed either as proprietor or tenant for a house or houses, or for land or for both, to the value of twelve pounds ten shillings currency, within the limits of such Village, and none other, shall be entitled to vote at such Village election.

LVIII. And be it enacted, That when and so often as any Police or other Village, Hamlet or place in Upper Canada not incorporated by name under this Act, together with the immediate neighborhood thereof, shall be found by the Census Returns for the same to contain over one thousand inhabitants whose residences are or shall be collected within a convenient neighbourhood or proximity to each other, to form an Incorporated Village, it shall and may be lawful for the Police Trustees of such Village, if the same shall be a Police Village, or for any number of resident freeholders or householders of such Village, Hamlet or place, in case it shall have no Police Trustees, not less than one hundred, to petition the Governor of this Province that such Village, Hamlet or place may be erected into or set apart as an Incorporated Village, and the inhabitants thereof incorporated under this Act; and upon such petition, it shall be lawful for the Governor of this Province, by an Order in Council, to issue a Proclamation under the Great Seal of this Province erecting or setting apart such Village, Hamlet or place into or as an Incorporated Village, by a name to be given in and by such Proclamation, and to set forth in such Proclamation proper boundaries for such Village, including within such boundaries any portion of the Township or Townships which, from the proximity of streets or buildings therein, may conveniently be attached to such Village, Hamlet or place, and when such Village shall have grown up on the confines of two or more Counties, so as to lie partly within the limits of each, to annex the whole of such Village as incorporated to some one of such Counties exclusively; and the inhabitants of such Village shall, on, from and after the first day of January next after the end of three calendar months from the *teste* of such Proclamation, be incorporated, and the said Village shall become an Incorporated Village apart from the Township or Townships in which it is situate, and the first election for such Village shall be held in the manner hereinbefore prescribed on the first Monday in that month, and such Village shall from thenceforth form a part of the County to which it shall have been so annexed as aforesaid, and shall be subject to the same regulations and provisions of Law, and shall have the same immunities and privileges as a Village named in the said Schedule to this Act annexed marked A, as fully as if such Village had been mentioned therein.

Provision with respect to the incorporation of Villages in which the population shall increase to a certain number.
Petition to the Governor.

Action upon such Petition.

Incorporation and corporate powers.

LIX. And be it enacted, That the Municipality of every such Village shall be formed in like manner as the Municipality of any Township, and shall have all such powers, duties and liabilities within and in respect of such Village as the Municipality of any Township shall have in respect of such Township, and the Townreeve of every such Village, and the other Officers thereof, shall have like powers, duties and liabilities within and in respect thereof as the Townreeve or other Officers of any Township shall have within and in respect of such Township, and the Townreeve of each of such Villages shall be a Member of the Municipal Council of the County in which the same is situated.

Duties and liabilities of Municipalities of incorporated Villages to be similar to those of Township Municipalities.

Village Municipalities may also make By-laws for—

LX. And be it enacted, That the Municipality of each Village, which shall be or remain incorporated under the authority of this Act, shall moreover have power and authority to make By-laws for each or any of the following purposes, that is to say :

Opening, &c., roads, &c.

Firstly. For the opening, constructing, making, levelling, pitching, raising, lowering, gravelling, macadamizing, planking, paving, flagging, repairing, planting, improving, preserving and maintaining any new or existing highway, road, street, square, side-walk, crossing, alley, lane, bridge or other communication, or any public wharf, dock, slip, drain, sewer, shore, bay, harbour, river or water and the shores and banks thereof within the jurisdiction of the Corporation of such Village, and for the entering into, performing and executing any arrangement or agreement with the Municipal Corporation of the County or Counties in which such Village may lie for the execution of any such work at the joint expense and for the joint benefit of the Municipal Corporations of such County or Counties, and of such Village and the people they represent; and for the stopping up, pulling down, widening, altering, changing or diverting of any such highway, road, street, bridge or communication within the same: Provided always, nevertheless, that no such new, widened, altered, changed or diverted highway, road, street, side-walk, crossing, alley, lane, bridge, or other communication, shall be laid out so as to run through or encroach upon any dwelling house, barn, stable or out-house, or any orchard, garden, yard or pleasure ground, without the consent in writing of the owner thereof.

Provision as to encroachments on private property of certain kinds.

Regulating Highways, &c.

Secondly. For regulating or preventing the encumbering, injuring or fouling of any such highway, road, street, square, side-walk, crossing, alley, lane, bridge or other communication, and of any such wharf, dock, slip, drain, sewer and shore, bay, harbour, river or water by any animals, wheel-barrows, cabs, carts, carriages or other vehicles, vessels, craft, lumber, stone, building or other materials or things whatsoever, or in any other manner whatsoever.

Removing steps, projections, &c.

Thirdly. For directing and requiring the removal at any time of any door-steps, porches, railings or other erections, projections or obstructions whatsoever which may project into or over the boundary lines of any such highway, road, street, square, side-walk, crossing, alley, lane, bridge or other communication, or of any such wharf, dock, slip, drain, sewer, shore, bay, harbour, river and water, or the shores and banks thereof, at the expense of the proprietor or occupant of the real property in or near which such projection or obstruction may be found.

Fixing boundary lines of Highways, &c.

Fourthly. For surveying, by competent persons, and fixing, marking, determining and settling the boundary lines of such highways, roads, streets, squares, alleys, lanes, bridges or other communications, and of all such public wharves, docks and slips, for giving names to the same, and affixing such names on boards or otherwise on the houses at the corners of the same.

Granting money to Counties by loan or otherwise.

Fifthly. For granting to the County or Counties in which such Village shall be situate, by way of loan, or otherwise, such sum or sums of money, in aid of such other moneys as may be raised by the Municipal Corporation of such County or Counties, or by voluntary subscriptions, for or towards the making, opening or erecting of any new road or bridge on the bounds of such Village.

Sixthly.

Sixthly. For regulating and managing any existing market, and for establishing, regulating and managing any new market, for preventing the selling or vending by retail in the public highways any meat, vegetables, fruit, cider, beer or other beverage whatsoever; for regulating the place and manner of selling and weighing butchers' meat, hay, straw, fodder, wood, lumber and fish; for restraining and regulating the purchase and manner of selling all vegetables, fruit, country produce, poultry, and all other articles or things, or animals exposed for sale, or marketed in the open air; for preventing the forestalling, regrating or monopoly of market grains, meats, fish, fruits, roots and vegetables; for restraining and regulating the purchase of any such things by hucksters or runners living within such Village or within one mile distant from the outer limits thereof; for regulating the measurement, length and weight of coal, lime, shingles, laths, cordwood and other fuel; and for imposing penalties for light weight, or short count or measurement in any thing marketed; for appointing Inspectors for regulating weights and measures in the markets, and within such Village according to the lawful Standard, and for visiting all places wherein weights and measures, steelyards or weighing machines of any description are used within such Village, and for seizing and destroying such as are not according to such Standard; and for imposing and enforcing the collection of penalties upon any person or persons therein who shall be found in the possession of unstamped or unjust weights, measures, steelyards or other weighing machines, for regulating all vehicles, vessels and other things in which any thing may be exposed for sale or marketed in any highway, street or public place, and for imposing a reasonable charge or duty thereon, and establishing the mode in which it shall be paid; for seizing and destroying all tainted and unwholesome meat, poultry, fish, or articles of food; and for distraining butchers' meat for the rent of market stalls, and for selling the same after six hours' notice.

Regulating
markets, &c.Forestalling or
monopoly, &c.Weights and
Measures.

Vehicles.

Unwholesome
meats.

Seventhly. For regulating any harbour lying within the limits of such Village, and the vessels, crafts and rafts arriving in it; for imposing and collecting such reasonable harbour dues thereon as may serve to keep such harbour in good order, and provide for the payment of a Harbour Master, and the erection and maintenance of the necessary beacons therein; for regulating and providing for the erection and rent of wharves, piers and docks in the said harbour, and for preventing the filling up or encumbering of any such harbour.

Regulating
harbours, &c.Harbour dues,
Beacons, &c.

Wharves, &c.

Eighthly. For regulating the assize of bread, and preventing the use of deleterious materials in the making thereof; and for providing for the seizure and forfeiture of bread baked contrary thereto.

Assize of
bread.

Ninthly. For enforcing the due observance of the sabbath; for preventing vice, drunkenness, profane swearing, obscene language, and any other species of immorality and indecency in the streets or other public places, and for preserving peace and good order; for preventing the excessive beating or cruel and inhuman treatment of animals on the public highways of such Village; for preventing the sale of any intoxicating drink to children, apprentices or servants without the consent of their legal protectors; for suppressing and imposing penalties on the keepers of low tippling houses and houses of ill fame visited by dissolute and disorderly characters; for licensing and regulating victualling houses or other houses of refreshment where spirituous liquors are not sold; for the regulation of all public billiard tables, and for licensing, regulating or preventing bowling alleys or other places of amusement; for regulating or preventing, restraining

Observance of
Sabbath, pre-
venting vice,
&c.Cruelty to
animals.Tippling
houses, &c.Victualling
houses, &c.

Gambling.

restraining

- restraining or suppressing horse-racing and gambling houses, and for entering into them and seizing and destroying faro-banks, rouge-et-noir, and roulette-tables, and other devices for gambling; for restraining and punishing all vagrants, drunkards, vagabonds, mendicants and street beggars, and all persons found drunk or disorderly in any street or public place in such Village; for restraining or regulating the licensing of all exhibitions of natural or artificial curiosities, theatres, circuses, or other shows or exhibitions kept for hire or profit.
- Vagrancy.**
- Exhibitions.**
- Public nuisances, &c.** *Tenthly.* For abating and causing to be removed all public nuisances; for regulating the construction of privy vaults; for causing vacant lots in central situations when they become nuisances to be properly enclosed; for regulating or preventing the erection or continuance of slaughter houses, gas works, tanneries, distilleries or other manufactories or trades which may prove to be nuisances; for preventing the ringing of bells, blowing of horns, shouting and other unusual noises in the streets and public places; for preventing or regulating the firing of guns or other fire-arms; for preventing or regulating the firing or setting off of fire balls, squibs, crackers or fire-works; for preventing or regulating the washing or bathing in any public water in or near such Village; for preventing and punishing parties engaged in charivaries and other like disturbances of the peace; for preventing any indecent public exposure of the person, or other indecent exhibition whatsoever; for preventing profane swearing and the use of blasphemous, obscene or indelicate language.
- Use of Fire-arms.**
- Bathing.**
- Charivaries, &c.**
- Obscene language, &c.**
- Lock-up not to be deviled, &c.** *Eleventhly.* For establishing, maintaining and regulating one or more public lock-up-houses in and for such Village for the detention and imprisonment of all persons sentenced to an imprisonment of not more than ten days, under any of the By-laws of such Village, and of all other persons lawfully detained in custody for examination before a Justice of the Peace or other competent authority on any charge of having committed any offence against the Law or the By-laws of such Village, or detained for the purpose of his transmission to any common gaol or house of correction upon commitment or otherwise either for trial or in the execution of any sentence that may have been passed upon him, either by a Justice of the Peace or other competent authority in that behalf.
- Public fountains, &c.** *Twelfthly.* For the establishing, protecting and regulating of public fountains, wells, pumps, cisterns, reservoirs and other conveniences for the supply of good and wholesome water or for the extinguishment of fires, and to make reasonable charge for the use thereof; and for preventing the waste and fouling of public water.
- Gunpowder, &c.** *Thirteenthly.* For regulating the keeping and transporting of gunpowder and other combustible or dangerous materials; and for erecting, regulating and providing for the support by fees of a Village Magazine for the storing of gunpowder belonging to private parties, and for compelling persons to store therein; for preventing or regulating the use of fire, lights or candles in livery or other stables, cabinet-makers and carpenters' shops, and combustible places; for preventing or regulating the carrying on of manufactories or trades dangerous in causing or promoting fire; and for regulating the mode of removal and requiring the safe keeping of ashes in proper deposits; for regulating, removing or preventing the construction of any chimney, flue, fire place, stove, oven, boiler or other apparatus or thing in any house, manufactory or business which may be dangerous in causing or promoting fire; for regulating the construction of chimnies as to
- Fire in certain places.**
- Ashes.**
- Chimnies.**

to dimensions and thickness, and the carrying of the same to a proper height above the roofs of buildings, and for enforcing the proper sweeping or cleaning of the same by licensed or other chimney sweepers ; for guarding against the calamities of fire by regulating and enforcing the erection of party walls ; for compelling the owners and occupants of houses to have scuttles in the roofs, and stairs and ladders leading to the same, and for authorizing the Officer to be appointed for that purpose to enter at all reasonable times or hours upon the property of any party subject to such regulations for the purpose of ascertaining that the same are properly obeyed ; for requiring the inhabitants of such Village to provide so many fire-buckets, in such manner and time as they shall prescribe, and for regulating the examination of them and the use of them at fires ; for regulating the conduct and enforcing the assistance of the inhabitants present at fires, and the preservation of property thereat ; for making regulations for the suppression of fires and the pulling down or demolishing of adjacent houses, buildings or other erections for that purpose ; for purchasing and establishing and regulating Fire, Hook, Ladder and Property Saving Companies ; for providing medals or rewards for persons who shall distinguish themselves at fires, and for assisting the widows and orphans of persons who may be killed by accidents occurring at such fires.

Party walls.

Ladders.

Fire Buckets,
&c.Fire Compa-
nies.

Fourteenthly. For entering into and examining all dwelling houses, warehouses, shops, yards and outhouses, for ascertaining whether any such places are in a dangerous state, with respect to fire or otherwise, and for directing them to be put in a safe and secure condition ; for appointing fire wardens and fire engineers ; for appointing and removing firemen ; for making such rules and regulations as may be thought expedient for the conduct of such Fire Companies, Hook and Ladder Companies and Property Saving Companies as may be raised with the sanction of the Corporation of such Village.

Examining
dwelling hou-
ses, &c. with
respect to
danger from
fire.

Fifteenthly. For providing for the health of the Village and against the spreading of the contagious or infectious diseases ; for regulating the interment of the dead, and for directing the returning and keeping of bills of mortality ; and for imposing penalties on physicians, sextons and others for default in the premises ; and for providing and regulating one or more Public Cemeteries for the interment of the dead.

Health of the
Village, &c.Bills of mor-
tality, &c.

Sixteenthly. For laying out, improving and regulating any Public Cemetery for the burial of the dead that they may obtain and establish for such Village, and for selling or leasing such portions thereof as they may think proper, and for declaring in the conveyance thereof to the purchasers or lessees, the terms on which such portions are to be held, and for making such other regulations for the improvement, ornament and protection of such Cemetery as they may think necessary and proper.

Public ceme-
teries, &c.

Seventeenthly. For preventing the immoderate riding or driving of horses or cattle in any of the public highways or streets of such Village ; and for preventing the leading, riding or driving of horses or cattle upon the side-walks of the streets of such Village, or other improper places therein.

Immoderate
driving &c.

Eighteenthly. For regulating or preventing the fishing with nets or seines, the use of fishing lights, or the erection or use of weirs for eels or other fish in any harbour, river or public water within the limits of the jurisdiction of the Corporation of such Village.

Fishing with
nets, &c.*Nineteenthly.*

Inns, Taverns,
&c.

Nineteenthly. For regulating inns, taverns, ale houses, victualling houses, ordinaries and all houses where fruit, oysters, clams, victuals or spirituous liquors, or any other manufactured beverage may be sold, to be eaten or drank therein, and all other places for the reception and entertainment of the public within the jurisdiction of the Corporation of such Village, and to limit the number of them, and in all cases when there exists no other provision by law for the licensing of such houses, to provide for the proper licensing of the same, at such rates as to the Corporation of such Village may seem expedient, the proceeds of such license, in cases not otherwise appropriated by law, to form part of the public funds of such Village, and to be disposed of as the said Corporation may consider advisable.

Licensing in
certain cases.

Injuring of
Trees, &c.

Twentiethly. For preventing the injuring or destroying of trees planted or growing for shade or ornament in such Village, and for preventing the pulling down or defacing of sign boards.

Borrowing
moneys.

Twenty-firstly. For borrowing under the restrictions, and upon the security hereinafter mentioned, all such sums of money as shall or may be necessary for the execution of any village work within the jurisdiction and the scope of the authority by this Act conferred upon them.

Levying
moneys.

Twenty-secondly. For raising, levying and appropriating such moneys as may be required for all or any of the purposes aforesaid, by means of a rate or rates to be assessed equally on the whole rateable property of such Village, according to any law which shall be in force in Upper Canada, concerning rates and assessments.

By-laws for
carrying their
Corporate
powers into
execution.

General pro-
vision as to
By-laws.

Proviso as to
fines.

Proviso.

Twenty-thirdly. For making all such other By-laws as may be necessary and proper for carrying into execution the powers herein vested or hereafter to be vested in the Corporation of such Village, or in any Department or Office thereof, for the peace, welfare, safety and good government of such Village, as they may from time to time deem expedient, such By-laws not being repugnant to this or any other Act of the Parliament of this Province or of the Parliament of Upper-Canada, or to the general laws of that part of this Province: Provided always, nevertheless, firstly, that no person shall be subject to be fined more than five pounds, exclusive of costs, or to be imprisoned more than thirty days for the breach of any By-law or regulation of such Village: And provided also, secondly, that no person shall be compelled to pay a greater fine than ten pounds for refusing or neglecting to perform the duties of any Municipal office when duly elected or appointed thereto.

Repealing or
amending
By-laws.

Twenty-fourthly. For the repeal, alteration or amendment from time to time of all or any of such By-laws and the making others in lieu thereof as to them may seem expedient for the good of the inhabitants of such Village.

V. TOWNS.

Inhabitants of
Towns men-
tioned in sche-
dule B &c.,
incorporated.
Corporate
powers.

LXI. And be it enacted, That the inhabitants of each of the Towns mentioned in the Schedule to this Act annexed marked B, and intituled, "Towns," and the inhabitants of all such Villages in Upper Canada as shall be erected into Towns by and under any Proclamation to be issued in that behalf under this Act, shall severally be a Body Corporate, with the same Corporate powers as the inhabitants of Villages incorporated under

under this Act, except in so far as such powers may be hereby increased, lessened or otherwise modified; and such powers shall be exercised by, through and in the name of the Town Council of each of such Towns respectively.

How
exercised.

LXII. And be it enacted, That for every Ward within the limits of any such Town, there shall be chosen three Councillors by the male resident freeholders and householders of such Ward.

Three Coun-
cillors to be
chosen for
every Ward.

LXIII. And be it enacted, That the elections for each of the said Wards shall take place on the first Monday in January in each year.

Election when
to take place.

LXIV. And be it enacted, That the Municipality, Town Council or Board of Police in office in each of the said Towns or Villages when this Act shall come into force, or who shall be in office when the Proclamation shall issue, erecting such Village into a Town as aforesaid, shall appoint a Returning Officer for each Ward, to hold the first election therein; and such Returning Officer shall fix the place for the said election, and give notice thereof by posting the same in at least three public places within his Ward, at least ten days next before the election; and that on the first Monday in January in every succeeding year, a like election shall be held, and the Returning Officers and places within each Ward for such elections shall be chosen and appointed by the Town Council in office next before such election, and public notice shall in like manner be given by such Returning Officer of the place of holding such election.

Appointment
of Returning
Officer.

Place of elec-
tion to be
fixed.

Elections to be
held yearly.

LXV. And be it enacted, That it shall be the duty of any person having custody of the Collector's Roll, including any Ward or portion of a Ward of any such Town, to furnish to the Returning Officer, and it shall be the duty of each Returning Officer, at least twenty days before any such election, to procure from such Officer having custody of the Collector's Roll or Rolls as aforesaid, a true copy thereof, so far as the same shall contain the names of the freeholders and householders within the Ward of such Returning Officer, with the amount for which they are respectively assessed upon such Roll, and every of which said copies shall be verified in like manner as the copies of the Collector's Rolls to be procured at the Township elections as hereinbefore provided: Provided always, that no person shall be qualified to be elected at such election, who shall not be seized to his own use of real estate held by him, in fee simple or in freehold, or for a term of twenty-one years or upwards, of which at least seven years remain unexpired, within the Town for which he is elected, of the assessed value of three hundred pounds, or unless he shall be a tenant from year to year or for a term of years, of real property, within such town, at a *bonâ fide* rental of forty pounds per annum or upwards, or shall be in the receipt of forty pounds or upwards of yearly rent or profit, accruing from or out of real property within such Town; and the Councillors aforesaid shall be chosen by the male inhabitants, being either freeholders or householders, who shall be entered on such Roll, and who shall continue to reside within such Ward at the time of the election, and who shall appear upon the said Roll to have been assessed either as proprietors or tenants for a house or for land, or for both, to the value of twenty-five pounds, and by none other.

Copy of Col-
lector's roll to
be furnished
to Returning
Officer.

Attestation of
such copy.

Proviso: who
may be elected,
or vote as
electors.

LXVI. And be it enacted, That on the second Monday next after the said yearly election, the Councillors so elected in any Town shall meet and choose from amongst themselves a Mayor for such Town, who shall have the same powers within such Town

Election of
Mayor.

as

Town Council constituted.

Meetings.

as are hereinbefore vested in the Townreeve of a Village; and the Mayor and Councillors shall form the Council of such Town; and the said first meeting shall be held at the place where the Municipality, Board of Police or Town Council for such Town shall have held their usual meetings.

Powers, &c., of Town Council.

LXVII. And be it enacted, That the Council for such Town shall have all and singular the powers, duties and liabilities within and in respect of such Town which the Municipality of any Village incorporated under this Act may or can lawfully use or exercise therein.

Provision with respect to Gaol, Court House, &c.

LXVIII. And be it enacted, That the Gaol, Court House, and House of Correction of the County within the limits or on the borders of which every such Town shall be situate, shall be and continue to be the Gaol, Court House and House of Correction of such Town as well as of such County, and the Sheriff, Gaoler and Keeper of such County Gaol and House of Correction, shall be bound to receive and safely keep, until duly discharged, all persons committed thereto by any competent power or authority of such Town.

A Police Office established in each Town: when the Mayor shall preside at it.

Proviso as to holy-days.

LXIX. And be it enacted, That there shall be in each of such Towns a Police Office, at which it shall be the duty of the Police Magistrate for such Town, or in his absence from sickness or other causes, or when there shall be no Police Magistrate for such Town, then it shall be the duty of the Mayor thereof to attend daily, or at such times and for such period as shall be necessary for the disposal of the business to be brought before him as a Justice of the Peace for such Town: Provided always, firstly, that no such attendance shall be required on Sunday, Christmas-day or Good-Friday, or on any day appointed by Proclamation for a Public Fast or Thanksgiving, unless in cases of urgent necessity; And provided also, secondly, that it shall and may be lawful for any Justice of the Peace having jurisdiction within such Town, at the request of the Mayor thereof, to sit for such Mayor at such Police Office, in every of which cases the required attendance of the said Mayor at such Police Office shall be dispensed with.

Proviso: with leave of the Mayor, another Magistrate may sit.

Appointment of Police Magistrates.

LXX. And be it enacted, That the Police Magistrates for the several Towns which shall be or remain incorporated as such under this Act shall be appointed by the Crown during pleasure; and every such Police Magistrate shall be *ex officio* a Justice of the Peace in and for the Town for which he shall be appointed, and in and for the County within or on the borders of which such Town shall lie, and shall receive a salary of not less than one hundred pounds per annum, payable quarterly out of the Municipal funds of such Town: Provided always, nevertheless, that a Police Magistrate shall not in the first instance be appointed for any of such Towns, until the Corporation of such Town shall have communicated to the Governor-General of this Province, through the Provincial Secretary thereof, their opinion that such an Officer was required for the better conduct of the affairs of such Town and administration of justice therein.

Salary.

Proviso: Police Magistrate not to be appointed except upon petition of the Corporation.

Police Magistrate may suspend Chief Constable.

LXXI. And be it enacted, That every such Police Magistrate shall have the power of suspending from the duties of his office any Chief Constable or Constable of the Town of which he is the Police Magistrate for any period in his discretion, and that immediately after such suspension, he shall report the same, with the cause thereof, if he deem such Chief Constable or Constable deserving of dismissal for the cause of such suspension, to the Town Council of such Town, and the Town Council thereof shall thereupon

thereupon in their discretion dismiss such Chief Constable or Constable, or direct that he shall be restored to the duties of his office after the period of such suspension shall have expired, and during such suspension no such Chief Constable or Constable shall be capable of acting in his said office except by the express permission of the Police Magistrate of such Town in writing, nor shall such Chief Constable or Constable be entitled to any salary or remuneration for the period of such suspension: Provided always, that it shall be in the power of such Police Magistrate to appoint some fit and proper person to act as Chief Constable or Constable during the period of such suspension of any Chief Constable or Constable as aforesaid.

Proviso as to temporary Chief Constable.

LXXII. And be it enacted, That all offences against the By-laws of any of the said Towns, and all penalties for refusal to accept or be sworn into office in such Towns, and all other offences over which one or more Justices of the Peace have or shall have jurisdiction, committed within any such Town, may be prosecuted and sued for, tried and recovered before the Police Magistrate of such Town, or when there shall be no Police Magistrate in such Town, then before the Mayor of such Town, such Police Magistrate or Mayor, as the case may be, acting, either alone or assisted by one or more Justices of the Peace for such Town, as the case may require; and such Police Magistrate shall *ex officio* be a Justice of the Peace for such Town, and it shall be his duty and that of the Justices for such Town to be the conservators of the peace in and for the same.

Offences against By-laws, &c., may be prosecuted before Police Magistrate or Mayor.

He shall be a J. P.

LXXIII. And be it enacted, That the Clerks of the Town Councils of the said Towns shall be Clerks of the Police Offices of such Towns, and perform the same duties and receive the same emoluments as now appertain to Clerks of Justices of the Peace in Upper Canada, unless by Act of the Town Councils of such Town another Officer be appointed for such purpose.

Who shall be Clerks of Police Offices. Their duties.

LXXIV. And be it enacted, That there shall be in and for each of the Towns which shall be or remain incorporated as such under the authority of this Act, one Chief Constable, and one or more Constables for each Ward of such Town who shall respectively hold their offices during the pleasure of the Town Council, but shall be liable to be suspended and dismissed as hereinbefore provided.

Appointment of Chief Constables, &c., to hold office during pleasure of Town Council.

LXXV. And be it enacted, That nothing in this Act contained shall be construed to limit the power of the Governor of this Province to appoint under the Great Seal thereof, any number of Justices of the Peace for any such Town.

Power of Governor as to appointment of J. P. not affected.

LXXVI. And be it enacted, That all oaths of Office of the Subordinate Officers of such Town, shall be taken before the Mayor or Police Magistrate thereof, or before any one of the Justices of the Peace for such Town, who are hereby authorized to administer the same.

Oath of Office of Subordinate Officers, before whom to be taken.

LXXVII. And be it enacted, That it shall and may be lawful for the Town Council of each of the said Towns, to select from among themselves one Townreeve, and when such Town shall have five hundred resident freeholders and householders on the Collector's Roll thereof, then also a Deputy-Townreeve for such Town, who shall be a Member of the Municipal Council of the County in which such Town is situate.

Appointment of Townreeve, and Deputy-Townreeve.

Appointment
of Assessors
and Collectors.

LXXVIII. And be it enacted, That the Town Council for each of the said Towns shall appoint three Assessors and one Collector for each Ward of the said Town, whose duty it shall be to make assessments and collect taxes within such Ward, in like manner as the Assessors and Collectors in the several Townships aforesaid are to perform the same duties in the said Townships respectively; Provided always, firstly, that none of the Town Councillors shall be eligible to be appointed to such offices; and provided also, secondly, that no person shall be appointed such Assessor, unless he shall be rated on the Collector's Roll for the year preceding his appointment, to the amount of three hundred pounds and upwards.

Proviso.

Proviso as to
qualification.

Provision for
the erection of
an incorporated
Village
into a Town,
on certain
conditions.

LXXIX. And be it enacted, That whenever any Incorporated Village in Upper-Canada, shall be found by the Census Returns to contain within its limits upwards of three thousand inhabitants, then upon petition of the Municipality of such Village, it shall and may be lawful for the Governor of this Province by an Order in Council to issue a Proclamation under the Great Seal of the Province erecting such Village into a Town, and including within the boundaries thereof any portion of the Township or Townships within which it may be situate, which from the proximity of streets or buildings thereon may conveniently be attached to such Town and dividing the said Town into Wards by appropriate names and boundaries; but no Town shall be so divided into less than three Wards, and none of such Wards shall have less than five hundred inhabitants; and such Town shall have an election by Wards on the first Monday in the month of January next after the end of three calendar months from the *teste* of such Proclamation; and such Town shall from thenceforth be subject to the same regulations and provisions of law, and shall have the same immunities and privileges as a Town named in the said Schedule to this Act annexed marked B, as fully as if such Town had been mentioned therein.

Number of
Wards.

First election
by Wards.

Privileges as a
Town.

Town Council
to be com-
posed of Coun-
cillors elected
for the differ-
ent Wards:
powers and
duties.

LXXX. And be it enacted, That the Town Council of any such Town shall be composed of the Councillors elected by and for the different Wards of such Town, and shall have all such powers, duties and liabilities within and in respect of such Town as the Municipality of any Village shall have in respect of such Village; and the Mayor of such Town and the other Officers thereof shall have the like powers, duties and liabilities respectively within and in respect thereof as the Townreeves and other Officers of any Incorporated Village shall have within and in respect of such Village.

Power of
Town Coun-
cils to make
By-laws for—

LXXXI. And be it enacted, That the Town Council of each of the Towns which shall be or remain incorporated under the authority of this Act, shall moreover have power and authority to make By-laws for each or any of the following purposes, that is to say:

Establishing
Police.

Firstly. For establishing and regulating a Police for such Town; for establishing and regulating one or more Alms-houses and Houses of Refuge for the relief of the poor and destitute; for erecting and establishing and also providing for the proper keeping of any Work-house or House of Correction that may hereafter be erected in and for such Town; for regulating the erecting of buildings and preventing wooden buildings from being erected in thickly built parts of such Towns.

Work-house
and house of
correction.

Regulating
erection of
buildings.

Purchase of
land for In-

Secondly. For the purchase of such lands as they may deem necessary, for the purpose of an Industrial Farm for such Town, of not less than two hundred acres in extent

extent within such convenient distance of such Town as they may deem expedient, and for erecting or building thereon such houses, buildings, yards and other inclosures as may be deemed proper for the purposes of such farm.

Industrial Farm;
&c.

Thirdly. For defraying out of the funds of such Town, if necessary, the expense of lighting the same or any part thereof with gas, oil or other substances, and the performing of any kind of work required for the purpose, and for obliging the proprietors or occupiers of real property to allow such work to be done, and such fixtures placed in or about their premises as may be necessary for that purpose; such work and fixtures to be done at the expense of such Town.

Lighting with
gas, oil, &c.

Fourthly. For regulating and licensing the owners of Livery Stables, Horses, Cabs, Hackney-coaches, Omnibuses, Carts and other Carriages used for hire in such Town, and for establishing the rates of pay or hire to be taken by the owners or drivers thereof, and for preventing runners, stage-drivers and others in the streets or public places from soliciting and teasing passengers and others to travel in any boat, vessel, stage or vehicle.

Livery stable
licenses, &c.

Public con-
veyances.

Fifthly. For assessing the proprietors of such real property in any such Town as may be immediately benefitted by such improvements, for such sum or sums as may at any time be necessary to defray the expense of making or repairing any common sewer, drain, flagging, posts or pavement in any public highway, street, square or place immediately opposite or near to such real property, and for regulating the time and manner in which such assessment shall be collected and paid.

Assessments
on real prop-
erty for spe-
cial improve-
ments.

Sixthly. For raising, levying and appropriating at and upon the petition of two thirds or upwards of the freeholders and householders resident in any particular street, square, alley or lane of such town, such sum or sums of money as may be necessary to defray the expense of sweeping and watering such street, square, alley or lane by means of a special rate to be assessed equally on the whole rateable property in such street, square, alley or lane.

Or for sweep-
ing and water-
ing streets, &c.

Seventhly. For borrowing under the restriction and upon the security hereinafter mentioned, all such sums of money as shall or may be necessary for the execution of any town work within their jurisdiction and the scope of the authority by this Act conferred upon them.

Borrowing
moneys.

Eighthly. For raising, levying and appropriating such moneys as may be required for all or any of the purposes aforesaid by means of a rate to be assessed equally on the whole rateable property in such Town according to any law which shall be in force in Upper Canada concerning rates and assessments.

Levying
moneys.

Ninthly. For making all such laws as may be necessary and proper for carrying into execution the powers herein vested or hereinafter to be vested in the Corporation of such Town or in any department or office thereof, for the peace, welfare, safety and good government of such Town as they may from time to time deem expedient, such laws not being repugnant to this or any other Act of the Parliament of this Province, or of the Parliament of Upper Canada, or to the general laws of that part of this Province: Provided always nevertheless, firstly, that no person shall be subject to

Making By-
laws for car-
rying into ex-
ecution powers
herein vested,
&c.

Proviso as to
fines, for
be

Breach of By-laws.
For refusing office.

be fined more than five pounds, exclusive of costs, or to be imprisoned more than thirty days, for the breach of any By-law or regulation of such Town: And provided also, secondly, that no person shall be compelled to pay a greater fine than twenty pounds for refusing or neglecting to perform the duties of any Municipal office when duly elected or appointed thereto.

Repealing or amending of By-laws.

Tenthly. For the repeal, alteration, or amendment, from time to time, of all or any of such By-law or By-laws, and the making others in lieu thereof, as to them may seem expedient for the good of the inhabitants of such Town.

VI. CITIES.

Inhabitants of cities mentioned in Schedule C. &c., incorporated.

Corporate powers.

How exercised.

LXXXII. And be it enacted, That the inhabitants of each of the Cities mentioned in the Schedule to this Act annexed marked C, and intituled "Cities," and the inhabitants of all such Towns in Upper-Canada as shall from time to time be erected into Cities by and under any Proclamation to be issued in that behalf under this Act, shall be Bodies Corporate with all the powers, privileges and immunities, duties and liabilities of the incorporated inhabitants of Towns as aforesaid, except in so far as such powers may be hereby increased, lessened or otherwise modified, and such powers shall be exercised by, through, and in the name of the Mayor, Aldermen and Commonalty of each of such Cities respectively.

Election of one Alderman and two Councillors for each Ward: copies of Collector's rolls to be furnished, &c., as in Towns.

Proviso: Mayor to be elected from among Aldermen.

Proviso: qualification of Aldermen.

Proviso: qualification of Councillors.

Qualification of electors.

LXXXIII. And be it enacted, That for every Ward within the limits of any such City, there shall be chosen by the male resident freeholders and householders of such Ward, one Alderman and two Councillors for such Ward, for which purpose copies of the Collector's Rolls shall be furnished, verified and procured by the like persons and within the like times as is hereinbefore provided with respect to Towns; and the Common Council of each such City shall be formed of such Aldermen and Councillors in the same manner as the Town Council of any such Town shall have in and with regard to the same, and all the rules, regulations, provisions and enactments contained in this Act, as applied to Incorporated Towns, by way of reference to those provided for Incorporated Villages or otherwise, shall apply to each of the said Cities: Provided always, firstly, that the Mayor of every such City shall be elected from among the Aldermen thereof; and provided always, secondly, that no person shall be qualified to be elected an Alderman for any such Ward who shall not at the time of the Election be seized, to his own use, of Real Estate held by him in fee simple, or in freehold, within the City for which he is elected or the liberties thereof of the assessed value of five hundred pounds, or unless he shall be a Tenant from year to year or for a term of years, of Real Property within such City or the liberties thereof, at a *bonâ fide* rental of sixty pounds per annum or upwards, or shall be in the receipt of sixty pounds or upwards, of yearly rent or profit accruing from or out of Real Property within such City or the liberties thereof; and provided always, thirdly, that no person shall be qualified to be elected a Councillor for any such Ward, who shall not, at the time of his Election, be in like manner seized to his own use of like Real Estate, to the value of three hundred pounds, or unless he shall be a Tenant from year to year or for a term of years, of Real Property within such City or the liberties thereof, at a *bonâ fide* rental of thirty pounds per annum or upwards, or shall be in the receipt of thirty pounds or upwards of yearly rent or profit accruing from or out of Real Property within such City or the liberties thereof; and provided always, fourthly and lastly, that the Aldermen

Aldermen and Councillors aforesaid, shall be chosen by the male inhabitants being either freeholders or householders who shall be entered on such Roll and who shall continue to reside within such Ward at the time of the Election, and who shall appear upon the said Roll to have been assessed either as Proprietors or Tenants for a house or for land, or for both, to the value of fifty pounds, and by none other.

LXXXIV. And be it enacted, That whenever any of the said Towns incorporated, or to be incorporated as aforesaid, shall be found by the census returns to contain more than fifteen thousand inhabitants, then, on petition from the Town Council of such Town, it shall and may be lawful for the Governor of this Province, by an Order in Council, to issue a Proclamation under the Great Seal of the Province, erecting such Town into a City, setting forth the boundaries of such City and of the liberties thereof respectively, with the portions of the liberties to be attached to each of such Wards respectively, and including within such boundaries any portion of the Township or Townships adjacent, which from the proximity of streets or buildings therein, or the probable future exigencies of such City, it may appear desirable in the opinion of the Governor in Council should be attached to such City or the liberties thereof; and to make new divisions of such City into Wards, in like manner as is provided in the case of the said Towns; and the first election in such place as a City shall take place on the first Monday of the month of January next, after the end of three calendar months from the *teste* of such Proclamation.

Provision with respect to the erection of incorporated Towns into Cities, on certain conditions.

New division into Wards.

First election, as a City.

LXXXV. And be it enacted, That each of the Cities which shall be or remain incorporated as such under the authority of this Act, with the liberties thereof, shall, for all Municipal purposes, and such Judicial purposes as are herein or hereby specially provided for, but no other, be a County of itself: Provided always, nevertheless, that nothing herein contained shall prevent the Municipal Council of the County within or on the borders of the territorial limits whereof such County of a City shall lie, to hold their sittings, keep their public offices, and transact all their business and that of their officers and servants within the limits of such City or the liberties thereof, and to purchase and hold all such real property within such limits as may be necessary or convenient for such purposes or any of them.

Each incorporated City to be a County of itself for certain purposes.

Proviso: not to prevent County Municipal Councils to hold their sittings in Cities, &c.

LXXXVI. And be it enacted, That the Justices of the Peace in and for the County within or on the borders of which such City shall lie, shall as such neither have nor exercise any jurisdiction over offences committed within such City or the liberties thereof; any law or usage to the contrary thereof notwithstanding: Provided always, nevertheless, firstly, that nothing herein contained shall be construed to prevent the General or Adjourned Quarter Sessions of the Peace for such County being held within the limits of such City or the liberties thereof, and having and exercising all the jurisdiction and authority necessarily incident to the power of holding such Sessions; And provided always also, secondly, that nothing herein shall prevent or be construed to prevent the endorsement of Warrants as now provided for by law, nor to alter or interfere with the effect of such endorsement.

Justice of the Peace of the County to have no jurisdiction within City.

Proviso: Quarter Sessions of the County may be held in City.

Proviso: with respect to endorsement of Warrants.

LXXXVII. And be it enacted, That from the time of the erection of any Town into a City, any and every Commission of the Peace that may have been issued for such Town shall cease and determine.

Commissions of the Peace to cease on erection of a City.

Chief Constable and High Bailiff to be appointed.

LXXXVIII. And be it enacted, That there shall be in and for each of the Cities which shall be or remain incorporated as such under the authority of this Act, besides a Chief Constable, as provided with respect to incorporated Towns as aforesaid, one High Bailiff, who shall be appointed annually by the Corporation of such City.

Corporation may erect any part of the liberties into outer Wards, &c.

LXXXIX. And be it enacted, That it shall and may be lawful for the Corporation of any City which shall be or remain incorporated under authority of this Act, by act of Common Council, from time to time, as it may seem expedient, to erect any part of the liberties contiguous to such City, as their boundaries shall be at the time, into one or more outer Wards; and may from time to time, as it may seem expedient, alter and vary the boundaries of such outer Wards, or any of them, before they shall be annexed to the said City, as hereinafter provided.

Provision for annexing an outer Ward to the City, on certain conditions.

XC. And be it enacted, That so soon as it shall appear by the census of any such City, that any one of its outer Wards contains as many inhabitants as by the census first taken after the passing of this Act, or after the erection of such City, as the case may be, shall be found to be contained in the least populous of the Wards erected by this Act, or by the Proclamation erecting such City, and by the general Assessment Rolls of such City, that such outer Ward contains as much assessed property as by the first Assessment of the said City made after the passing of this Act, or after the issuing of such Proclamation as aforesaid, shall be found to be contained in the least wealthy of the Wards erected by this Act or by such Proclamation, it shall and may be lawful for the Mayor of such City, for the time being, and he is hereby required forthwith to issue a Proclamation, under the Seal of the said City, setting forth the same, and annexing such Ward to such City, calling it by such name as the Common Council thereof shall think fit.

When an outer Ward is annexed, it shall cease to form part of the liberties.

XCI. And be it enacted, That from the date of any such last mentioned Proclamation, such Ward shall cease to be a part of the liberties, and shall from thenceforth constitute a Ward of such City, and have incident to it, and its inhabitants every thing by this Act or any future Act of Parliament, or any act of Common Council, incident to the Wards of such City, or the inhabitants thereof, in general, and every such Act shall extend to such Ward as it does or shall to the other Wards of such City in general: Provided always, that no Election for Charter Officers for any such Ward, shall take place until the general Election for such Officers next ensuing the issuing of any such last mentioned Proclamation.

Provide us to elections for each Ward.

Present Gaol, Court House, &c., to continue as such for City and County, until otherwise provided.

XCII. And be it enacted, That the Gaol, Court House and House of Correction of the County within the limits or on the borders of which any such City shall be situate, shall be and continue to be the Gaol, Court House and House of Correction of such City, as well as of such County, until such City shall by Act of Common Council otherwise direct; and the Sheriff, Gaoler and Keeper of every such County Gaol and House of Correction shall be bound to receive and safely keep until duly discharged, all persons committed thereto by any competent power or authority of such City.

A Recorder's Court to be established for each City.

XCIII. And be it enacted, That besides a Police Officer and Police Magistrate, as provided with respect to Incorporated Towns as aforesaid, and which shall have the like duties and powers in all respects in such City and the liberties thereof as is herein provided with respect to the Police Officers and Magistrates for incorporated Towns as aforesaid,

aforesaid, there shall moreover be a Court of Record in each of the Cities, which shall be or remain incorporated as such under the authority of this Act, which Court shall be called the Recorder's Court of such City, and wherein the Recorder for the time being shall preside, assisted by one or more of the Aldermen of such City, or in the absence of such Recorder from sickness or other causes, or when there shall be no Recorder, the Mayor or one of the Aldermen of such City, to be elected by the Aldermen from among themselves, shall preside; and that such Court shall in all cases possess the like powers and have the like jurisdiction as to crimes, offences and misdemeanors committed in such City and the liberties thereof as the Courts of Quarter Sessions of the Peace now have or hereafter may have by Law in Upper-Canada, as to crimes, offences and misdemeanors committed within their local jurisdiction, as well as in all those matters of civil concern not belonging to the ordinary jurisdiction of a Court of Justice, as have been or may hereafter be by Law vested in such Courts of Quarter Sessions of the Peace.

Who shall
preside in it.

Jurisdiction of
the Recorder's
Court.

XCIV. And be it enacted, That the said Recorder's Court shall hold four Sessions in each year, which Sessions shall commence on the second Monday in the months of January, April, July and October in each year.

Four Sessions
in each year,
and when.

XCIV. And be it enacted, That the inhabitants of every such City erected or to be erected under the authority of this Act, and of the liberties thereof, at all times after the passing of this Act, or after the first day of January next after the end of the three calendar months from the *teste* of the Proclamation erecting such City, as the case may be, shall be exempt from serving on Juries at any other than the City Courts and the Courts of Assize and *Nisi Prius*, Oyer and Terminer and General Gaol delivery for the County within the limits or on the borders of which such City shall be situate.

Inhabitants of
City and Li-
berties exempt-
ed from serv-
ing on certain
Juries after a
certain date.

XCVI. And be it enacted, That the Grand Juries of such Recorder's Courts shall consist of twenty-four persons to be summoned by the High Bailiffs of each of the said Cities, under precepts signed by the Recorders or Aldermen elected to sit for such Recorders, in the same manner as Grand Juries of the Quarter Sessions are now or hereafter may be by law summoned by the different Sheriffs in Upper Canada.

Who shall be
Grand Jurors
for the Recorder's
Courts,
and how
summoned.

XCVII. And be it enacted, That the Panels of the Petit Jurors for such Courts shall consist of not less than thirty-six nor more than sixty Jurors to be summoned by the High Bailiffs of each of the said Cities, under precepts signed by the Recorders or Aldermen elected to sit for such Recorders in the same manner as Petit Jurors of the Quarter Sessions now are or hereafter may be by law summoned by the different Sheriffs in Upper Canada.

Petit Jurors to
be summoned
by High
Bailiffs.

XCVIII. And be it enacted, That such persons only residing in the said Cities or the liberties thereof, shall be summoned to compose the Grand and Petit Jurors of such Recorder's Courts as are at present or hereafter may be liable to be summoned as Grand and Petit Jurors respectively in any Court of Upper Canada.

Who shall be
Grand and
Petit Jurors.

XCIX. And be it enacted, That the respective Grand Juries shall have all the power and authority over offences committed in the said Cities and the liberties thereof, which Grand Juries for the General Quarter Sessions of the Peace in Upper Canada now have or hereafter may have.

Authority of
Grand Juries.

Powers of
Courts of
Quarter Ses-
sions vested in
Recorder's
Courts.

C. And be it enacted, That the like Process and Proceeding now had in the said General Quarter Sessions of the Peace in criminal cases, shall and may be used in the said Recorder's Courts when exercising criminal jurisdiction, and the like power to take recognizances and all other powers and duties incidental to such jurisdiction, and which the said Courts of General Quarter Sessions now or hereafter may possess by law, together with the powers granted by this Act, are hereby vested in the said Recorder's Courts as far as regards any offences, crimes and misdemeanors arising or committed within such Cities and the liberties thereof respectively.

On acquittal of
a defendant,
costs to be
paid out of
City funds,
when there
was reasonable
cause for pro-
secution.

CI. And be it enacted, That upon the acquittal of any Defendant or Defendants in any of the said Recorder's Courts, the Recorder or presiding Alderman thereof, shall upon its appearing to the satisfaction of the said Court, that there was a reasonable and probable cause for such prosecution, order the costs thereof to be taxed by the Clerk of the said Court to be paid out of the City Funds.

Recorder may
suspend High
Bailiff, Chief
Constable, &c.
from their
duties.

CII. And be it enacted, That every such Recorder shall have the power of suspending from the duties of his Office any High Bailiff, Chief Constable or Constable of the City of which he is the Recorder, for any period in his discretion, and that immediately after such suspension he shall report the same with the cause thereof if he deem such High Bailiff, Chief Constable or Constable deserving of dismissal for the cause of such suspension, to the Common Council of such City, and the said Common Council shall thereupon in their discretion, dismiss such High Bailiff, Chief Constable or Constable, or direct that he shall be restored to the duties of his Office after the period of such suspension shall have expired, and during such suspension no such High Bailiff, Chief Constable or Constable shall be capable of acting in his said Office except by the express permission of the Recorder of such City in writing, nor shall such High Bailiff, Chief Constable or Constable be entitled to any salary or remuneration for the period of such suspension: Provided always, that it shall be in the power of such Recorder to appoint some fit and proper person to act as High Bailiff, Chief Constable or Constable during the period of such suspension of any High Bailiff, Chief Constable or Constable as aforesaid.

Proviso as to
a Bailiff, &c.
pro tempore.

Who shall be
Clerks of
Recorder's
Courts.

CIII. And be it enacted, That the Clerks of the Common Councils of the said Cities shall be Clerks of the Recorders' Courts, and perform the same duties and receive the same emoluments as now appertain to the Clerks of the Peace in Upper Canada.

Appointment
and qualifica-
tion of Record-
ers.

CIV. And be it enacted, That the Recorders for the several Cities which shall be or remain incorporated as such under the authority of this Act, shall be Barristers of Upper Canada of not less than five years' standing, and shall be appointed by the Crown during pleasure, and every such Recorder shall be *ex officio* a Justice of the Peace, in and for the City and Liberties thereof, for which he shall be appointed, and shall receive a salary of not less than two hundred and fifty pounds per annum, payable quarterly out of the Municipal Funds of such City: Provided always nevertheless, that a Recorder shall not in the first instance be appointed for any of such Cities until after the Corporation of such City shall have communicated to the Governor General of this Province through the Provincial Secretary thereof their opinion that such an Officer was required for the better conduct of the affairs of such City, and administration of justice therein.

Proviso: not
to be appointed
except on
petition of the
Corporation.

CV. And be it enacted, That it shall and may be lawful for any such Common Council in any such communication to declare their opinion that the said offices of Recorder and Police Magistrate may be vested in the same person for some time thereafter, in every which case the same person shall be appointed to both of such offices, and the said offices shall remain united in such person and his successors until such Common Council shall have further communicated to the Governor General of this Province, their opinion that such offices should no longer continue united; from which time the same shall be held separately: Provided always, that during the union of such offices the person holding the same shall not be entitled to any other than the salary herein provided for the office of Recorder.

Offices of Recorder and Police Magistrate may be vested in the same person.

Proviso as to salary in such case.

CVI. And be it enacted, That the Common Council of such City shall have all and singular the powers and authority within such City and the Liberties thereof, which the Town Council of any Town incorporated under the authority of this Act, may or can lawfully use or exercise therein.

Powers of City Councils to be similar to those of Town Councils.

CVII. And be it enacted, That the Common Council of each of the Cities which shall be or remain incorporated under the authority of this Act shall moreover have power and authority to make By-laws for each of the following purposes, that is to say:

City Councils may make By-laws for—

Firstly. For erecting and establishing and also providing for the proper keeping of a City Hall, Court House, Gaol, House of Correction and House of Industry in and for such City and the Liberties thereof, and appointing the Inspectors of any such House of Industry.

Erection of a City Hall, Gaol, House of Correction, &c.

Secondly. For regulating, in their discretion, the erecting of buildings and preventing wooden buildings and wooden fences from being erected in such City.

Regulating the erection of wooden buildings;

Thirdly. For borrowing under the restrictions and upon the security hereinafter mentioned all such sums of money as shall or may be necessary for the execution of any city work within their jurisdiction, and the scope of the authority by this Act conferred upon them.

Borrowing moneys;

Fourthly. For raising, levying, and appropriating such moneys as may be required for all or any of the purposes aforesaid by means of a rate to be assessed equally on the whole rateable property of such City according to any law which shall be in force in Upper Canada, concerning rates and assessments.

Levying moneys by rate.

Fifthly. For making all such laws as may be necessary and proper for carrying into execution the powers herein vested or hereafter to be vested in the Corporation of such City or in any department or office thereof, for the peace, welfare, safety and good government of such City as they may from time to time deem expedient, such laws not being repugnant to this or any other Act of the Parliament of this Province, or of the Parliament of Upper Canada, or to the general laws of that part of this Province: Provided always nevertheless, firstly, that no person shall be subject to be fined more than five pounds exclusive of costs, or to be imprisoned more than thirty days for the breach of any By-law or Regulation of such City: And provided also, secondly, that no person shall be compelled to pay a greater fine than twenty pounds, for refusing or neglecting to perform the duties of any municipal office, when duly elected or appointed thereto.

Carrying into execution powers vested in them.

Proviso as to fines for breach of By-laws; Or for not accepting office.

Repealing or
amending By-
laws.

Sixthly. For the repeal, alteration or amendment, from time to time, of all or any of such By-laws, and the making others in lieu thereof as to them may seem expedient for the good of the inhabitants of such City.

VI. MISCELLANEOUS PROVISIONS.

Who shall be
the Heads of
the different
Corporations.

CVIII. And be it enacted, That of the Municipal Corporations erected or to be erected under the authority of this Act, the Warden of each County shall be the Head of the Municipal Council or Corporation of such County, the Mayor of each City and Town shall be the Head of the Town or Common Council or Corporation of such City or Town respectively, and the Townreeve of each Township and Village, the Head of the Municipality or Corporation of such Township or Village respectively.

Head of any
Corporation to
be *ex officio* a
Justice of the
Peace.

CIX. And be it enacted, That the Head of every such Municipal Corporation as aforesaid shall *ex officio* be a Justice of the Peace, in and for the County within or on the borders of which the Township, Village, Town or City, in or over which he shall preside as such Head as aforesaid, shall be situate, and shall have within every such County, as well as within the limits of the jurisdiction of the Municipal Corporation over which he presides, all and singular the powers and jurisdiction as well civil as criminal which belong to that office.

Absence of
more than
three months
at a time
without leave,
to vacate the
office.

Vacancy how
filled.

CX. And be it enacted, That in the event of the absence of the Head of any such Municipal Corporation from the duties of his office for a period exceeding at one time three calendar months, without having been first authorized so to absent himself by a resolution of such Municipal Corporation, he shall vacate his office; and in such case, it shall and may be lawful for such Municipal Corporation, at a special meeting thereof for that purpose, to be convened within three days after such office shall become vacant, to elect from among themselves a successor to such Head of such Municipal Corporation, who shall hold office for the remainder of the time of service of his immediate predecessor, which Head of such Corporation shall be sworn into office as is in and by this Act provided.

Resignation of
Heads of Cor-
porations.

CXI. And be it enacted, That it shall and may be lawful for the Head of such Municipal Corporation, at any time, by and with the consent of such Municipal Corporation, to resign his office; and his successor shall in such case be elected within the time and in the manner, and for the same period as is provided in the next preceding section of this Act.

Members of
Corporations
becoming in-
solvent to
cease to be
Members.

CXII. And be it enacted, That if any of the Members of any such Municipal Corporations, erected or to be erected under the authority of this Act, shall be declared a Bankrupt, or shall apply to take the benefit of any Act for the relief of Insolvent Debtors, or shall compound by deed with his creditors, then, and in every such case, such person shall thereupon immediately become disqualified, and shall cease to be a Member of such Municipal Corporation, for the residue of the time for which upon such bankruptcy, insolvency, or composition with his creditors, such Member of such Municipal Corporation was liable to serve; and the vacancy thereby created shall be filled as in the case of the natural death of such Member of such Municipal Corporation.

CXIII. And be it enacted, That the Head of every such Municipal Corporation, or, in his absence, the Chairman thereof, shall have power to administer an oath or oaths, affirmation or affirmations, to any person or persons concerning any account or other matter which shall be submitted to such Municipal Corporation.

Power to Head of Corporation to administer certain oaths.

CXIV. And be it enacted, That for and notwithstanding the issue of any Proclamation under the authority of this Act for the incorporation of any Village or for the erection of any Village into a Town, or of any Town into a City, the Municipal Corporation existing in or having authority over such Village or Town, or the Hamlet or place of which by such Proclamation such Village, Town or City shall be made to consist immediately previous to the first day of January next after the end of three calendar months from the *teste* of such Proclamation, and all and singular the members, officers and servants of the same respectively shall upon, and from such last mentioned first day of January, until the fourth Monday of the same month, continue to have, exercise and perform all and singular the Municipal and other powers, functions and duties which, immediately previously to such last mentioned first day of January, shall or may by law have been vested in them respectively, to all intents and purposes as if such Proclamation had not been issued.

Notwithstanding proclamation incorporation Villages, &c., Municipal Corporations then existing to continue to exercise their powers for a certain time.

CXV. And be it enacted, That it shall and may be lawful for the Governor of this Province, by any Order in Council, made upon the petition of the Municipal Corporation of any Town or Village, by Proclamation under the Great Seal of the Province, to add to the boundaries of such Town or Village, and to make a new division of the Wards of any such Town, and to alter the boundaries and number of such Wards, but so that there be not less than three Wards therein, and that no Ward shall by such division contain less than the number of inhabitants contained in the least populous Ward of such Town by the first census taken after the first erection of such Town; and the first election, under such enlargement or new division of such Town or Village, shall take place on the first day of January next, after the end of three calendar months from the *teste* of such Proclamation.

Governor in Council may enlarge boundaries, or alter the division, &c., of a Town or Village, on petition of the Corporation.

As to first election thereafter.

CXVI. And be it enacted, That nothing herein contained shall be construed to authorize any Municipal Corporation erected under the authority of this Act to give any person or persons an exclusive right or privilege to exercise within the locality over which it has jurisdiction, any trade or calling concerning which such Municipal Corporation may be hereby empowered to make regulations, or to require that a license to exercise the same be taken from such Municipal Corporation or any Officer thereof, or to impose any special tax on any person or persons exercising the same except only such reasonable fee, not in any case exceeding five shillings, as may be necessary for remunerating the proper Officer for issuing or granting to any such person a certificate of his having complied with any such regulations as aforesaid; Provided always nevertheless, that nothing herein contained shall affect the right of any Municipal Corporation to the exclusive privilege of any ferry now vested in the present Corporation of such County, City, Town or Village.

Municipal Corporation not to grant exclusive rights to exercise any trade or calling.

Proviso as to Ferries.

CXVII. And be it enacted, That whenever there shall be a Police Magistrate for any Town or City erected or to be erected under the authority of this Act, the power of granting licenses to inn-keepers, and the keeping of ale and beer houses within such Town or City, or the liberties thereof, under such By-laws as may be made for that purpose by the Municipal Corporations thereof, shall be vested in and belong to such Police Magistrate.

When a Police Magistrate shall be appointed in a Town or City, powers of granting tavern licenses vested in him.

CXVIII.

Tavern-keepers keeping disorderly houses, to be tried before the Mayor or Police Magistrate and two Aldermen or Justices of the Peace.

Punishment on conviction.

Affirmation allowed in certain cases instead of taking the oath.

Value of the property assessed to appear upon the Roll.

Voters to be subjects of Her Majesty, and of full age.

Persons appearing on Collector's Roll as qualified to vote, only required to take certain oaths.

False swearing, &c., perjury.

CXVIII. And be it enacted, That the Mayor or Police Magistrate, with any two Aldermen or Justices of the Peace for any Town or City erected or to be erected under the authority of this Act, shall have full power and authority upon complaint made to them or any one of them, upon oath, of any riotous or disorderly conduct in the house of any Inn or Tavern-keeper in any such Town or City, to enquire summarily into the matter of such complaint, and for the Mayor or Police Magistrate of such Town or City, to summon such Inn or Tavern-keeper to appear to answer such complaint, and thereupon it shall be lawful for the Mayor or Police Magistrate, with any two Aldermen or Justices of the Peace, to investigate the same, and to dismiss the same with costs, to be paid by the complainant, or to convict the said Inn or Tavern-keeper of having a riotous or disorderly house, and to abrogate the license, or to suspend the benefit of the same for any period not exceeding sixty days; and during the period of such suspension such Inn or Tavern-keeper shall lose all the powers, privileges and protection that would otherwise have been afforded him by his said license.

CXIX. And be it enacted, That in every case in which an oath is required to be administered or taken under this Act, the person required to take such oath, if by law permitted to affirm instead of swear in judicial cases in Upper Canada, shall be entitled and required to make solemn affirmation to the same effect as the oath which would otherwise be required.

CXX. And be it enacted, That in future the Collector's Rolls for the different Townships, Incorporated Villages and Wards in Upper Canada shall contain the amount of the assessed value of the real and also the amount of the assessed value of the personal property of each person whose name shall appear upon such Roll, as well as the amount to be collected from such person.

CXXI. And be it enacted, That no person shall be qualified to vote, or to be elected or appointed under this Act, who shall not at the time of his voting, election or appointment, be a natural-born or naturalized subject of Her Majesty, Her Heirs or Successors, and of the full age of twenty-one years.

CXXII. And be it enacted, That in all elections of Members of any of the Municipal Corporations erected or to be erected under the authority of this Act, whether for Townships, Villages or Wards, each and every person whose name shall appear upon the Collector's Roll, or copy thereof, hereinbefore required to be procured for the purposes of such election, as having been taxed as a freeholder or householder in any such Township, Village or Ward, to an amount sufficient to entitle him to vote at such election, shall be entitled to vote at such election for the same, without any other enquiry and without taking any oath or affirmation other than that he is the person named in such Collector's Roll, that he is of the full age of twenty-one years, and is a natural-born, or naturalized subject of Her Majesty, that he is resident within such Township, Village or Ward, and that he has not before voted at such election.

CXXIII. And be it enacted, That every person wilfully swearing or affirming falsely in any oath or affirmation required to be taken under this Act, shall be liable to the pains and penalties of wilful and corrupt perjury.

CXXIV.

CXXIV. And be it enacted, That every Returning Officer, or person holding any election under this Act, shall have power to administer all oaths or affirmations required to be administered or taken at any such election.

Returning Officers authorized to administer oaths.

CXXV. And be it enacted, That the Heads of the several Municipal Corporations created or to be created under the authority of this Act, and also the Aldermen of the said Cities and the Justices of the Peace for the several Towns, and also every County, City, Town, Township and Village Clerk, appointed under the authority of this Act, shall have authority to administer any oath or affirmation required to be taken under this Act, and relating to the business of the place in which he shall hold such office as aforesaid, except where it is or shall be otherwise specially provided, or except where he shall be the party required to take such oath or affirmation; and it shall be the duty of any person administering such oath or affirmation to preserve the same, duly certified by him and subscribed by the party taking or making the same, and to deposit the same in the office of the County, City, Town, Township or Village Clerk, for the County, City, Town, Township or Village in which the said oath or affirmation shall be taken or made, and to the business and affairs of which it shall properly belong, within eight days after such oath or affirmation shall be administered, on pain of being deemed guilty of a misdemeanor.

Heads of Corporations, &c., authorized to administer oaths in certain cases.

Deposit of the oath, &c.

Penalty for contravention.

CXXVI. And be it enacted, That in all matters of dispute of and concerning roads, allowances for roads, side lines, boundaries or concessions, pending, or in the course of investigation before the said Municipal Corporations, it shall and may be lawful for the Head of each of the said Municipal Corporations to administer an oath or affirmation to any of the contending parties, and to any witness to be examined touching or concerning the said matters in dispute, and that any person falsely swearing or affirming in that behalf shall be guilty of wilful and corrupt perjury.

Oaths may be administered to parties and witnesses in disputes as to boundaries, &c.

CXXVII. And be it enacted, That each Township, Village, Town or City Councillor, and each Township, County, Village, Town or City Clerk, and each Justice of the Peace for any of the Towns aforesaid, and each Assessor and Collector, and each Returning Officer and Returning Officer's Clerk, and each Constable or other Officer, who shall be appointed under this Act, by any Municipal Corporation, shall, before entering on the duties of his office, take and subscribe an oath or affirmation to the effect following, that is to say:

Officers elected or appointed under this Act to take oath of Office.

"I, A. B., do solemnly swear, (or affirm, where the party is entitled to affirm instead of swear) that I will truly, faithfully and impartially, to the best of my knowledge and ability, execute the office of (inserting the name of the office) to which I have been elected (or appointed) in this Township, (County, &c.) and that I have not received and will not receive any payment or reward, or promise of such for the exercise of any partiality or malversation, or other undue execution of the said office. So help me God."

The oath.

CXXVIII. And be it enacted, That the Head of every Municipal Corporation erected, or to be erected under the authority of this Act, shall be sworn or affirmed into office by the Highest Court of Law or Equity whether of general or only of local jurisdiction, which shall at the time be sitting within the limits of such Corporation, or by the Chief Justice or other Justice or Judge of such Court at his chambers, or if there be no such Court, Justice or Judge within the limits of such Corporation at the time,

Before whom the Head of a Municipal Corporation shall be sworn.

Power to administer the oath.

time, then before the Recorder or Police Magistrate of such City or Town, or any Justice of the Peace of the County or Town in or over which such Corporation shall have jurisdiction, or in the case of Townships and Villages, by any Justice of the Peace for the County in which such Township or Village shall be situate, or in case there shall be no such Court, Justice, Judge, or Justice of the Peace within such limits at the time, then before the Clerk of such Municipal Corporation, in the presence of a meeting of such Corporation, which several Courts, Justices, Judges, Recorders, and Police Magistrates, and Justices of the Peace, and Clerks are hereby severally authorized and required to administer such oath or affirmation, and to give the necessary certificate of the same having been duly taken and subscribed.

An Oath of qualification to be taken by certain Officers.

CXXIX. And be it enacted, That every person who shall be elected or appointed under this Act, to any office which requires a qualification of property in the incumbent, shall, before he shall enter into the duties of his office, take and subscribe an oath or affirmation to the effect following, that is to say :

The oath.

“ I, A. B. do swear (or affirm, where the party is entitled to affirm instead of swear) that I am a natural born (or naturalized) subject of Her Majesty; that I am truly and *bonâ fide* seized to my own use and benefit, of such an estate (specifying the nature of such estate, and if land, designating the same by its local description, rents, or otherwise) as doth qualify me to act in the office of (naming the office) for (naming the place for which such person is elected or appointed) according to the true intent and meaning of a certain Act of the Parliament of this Province, passed in the year of the reign of Her Majesty Queen Victoria, chaptered (inserting the chapter of this Act) and intituled, An Act, &c. (inserting the title of this Act). So help me God.”

Penalty for refusal to take office or oaths, &c.

CXXX. And be it enacted, That each and every qualified person duly elected or appointed to be a Police Trustee of any police village, or Councillor or Townreeve of any Township or Village, or a Councillor, Alderman, or Mayor of any Town or City, or a Township, Village, Town, or City Assessor or Collector, who shall refuse such office, or who shall refuse or neglect to take the oath or affirmation of office and that of qualification, under this Act, within twenty days after he shall be so elected or appointed, and have had notice of such election or appointment, and every person duly authorized to administer such oath or affirmation who shall refuse to administer the same when such administration is reasonably demanded of him, shall, upon conviction thereof before any Court of competent jurisdiction, forfeit and pay not more than twenty pounds, and not less than two pounds, at the discretion of the Court, and to the use of Her Majesty, Her Heirs and Successors, together with such costs of prosecution as shall be adjudged by the Court: Provided always, that no person who shall have served in any of the said offices for the year next before any such election or appointment, shall be obliged to serve or be sworn into the same or any other of the said offices for the year succeeding such service.

Proviso as to persons having served in such offices.

Certain persons exempted from serving in any Corporate Office.

CXXXI. And be it enacted, That all persons over sixty years of age, all members of the Legislative Council, and of the Legislative Assembly, all Officers and others in the service of the Crown, either civil or military on full pay, all Judges, Sheriffs, Coroners, Gaolers, and Keepers of houses of correction, all persons in Priest's orders, Clergymen and Ministers of the Gospel of any denomination, all members of the Law Society

Society of Upper Canada, whether Students or Barristers, all Attornies and Solicitors in actual practice of their professions, all Officers of Courts of Justice, all Members of the Medical profession, whether Physicians or Surgeons, and all Professors, Masters, Teachers, and other Members of any University, College or School in Upper Canada, and all Officers and Servants thereof, and all Millers, and Firemen belonging to any regular Fire Company, shall be and are absolutely free and exempt from being elected or appointed to any Corporate Office whatsoever.

CXXXII. And be it enacted, That no Judge of any Court of civil jurisdiction, no Naval or Military Officer on full pay, and no person receiving any allowance from the Township, County, Village, Town, or City, (except in the capacity of Councillor, or in capacities incident thereto), and no person having by himself or partner any interest or share in any contract with or on behalf of the Township, County, Village, Town or City in which he shall reside, shall be qualified to be, or be elected Alderman or Councillor for the same, or for any Ward therein.

Certain persons disqualified from being elected Aldermen or Councillors.

CXXXIII. And be it enacted, That no person shall be qualified to be appointed Assessor for any Township, Village or Ward, who shall be a Councillor of such Township or Village, or of the Town or City in which such Ward shall be situate, or an Alderman or Councillor of the City in which such Ward is situate, nor shall any person be appointed such Assessor unless he shall, at the time of his election or appointment, be seized or possessed to his own use, of property sufficient to qualify him to be elected a Councillor for such Township or Village, or the Town or City in which such Ward shall be situate.

Who may not be an Assessor, and qualification of an Assessor.

CXXXIV. And be it enacted, That nothing in this Act contained, shall prevent any person from being appointed Assessor or Collector for more than one Ward in any City or Town.

One Assessor may be appointed for more than one Ward.

CXXXV. And be it enacted, That each and every Justice of the Peace for any of the said Towns shall be qualified in the same amount of property, and shall take the same oaths as are required of other Justices of the Peace. But no Warden of any County, Mayor, Recorder, Police Magistrate, or Alderman of any City, Mayor or Police Magistrate of any Town, or Townreeve of any Township or Village, shall require any property qualification to enable him lawfully to act as a Justice of the Peace, nor shall any other oath be required of him than his oath of office as such Warden, Mayor, Recorder, Police Magistrate, Alderman, or Townreeve, and the oath of qualification for such office ; any law to the contrary notwithstanding.

As to qualification of Justices of the Peace.

No property qualification required by a Warden, Mayor, &c.

CXXXVI. And be it enacted, That one or more Coroners shall and may be appointed for every City and Town that shall be or continue incorporated as such under the authority of this Act.

Appointment of one or more Coroners for each City and Town.

CXXXVII. And be it enacted, That the Police Trustees of every unincorporated Police Village, and the Members of the Municipal Corporation of every Incorporated Village, and of every Township, Town and City in Upper Canada, shall be Health Officers within the Jurisdiction of such Police Villages or Municipal Corporations, within and under the provisions of the Act of the Parliament of the late Province of Upper Canada, passed in the fifth year of the reign of His late Majesty King William

Police Trustees, &c., to be Health Officers under Act of U. C. 5 W. 4. c. 10, or any future Act.

the

the Fourth, intituled, *An Act to promote the Public Health, and to guard against infectious diseases in this Province*, and under any Act that may be hereafter passed in the present or any future Session of the Parliament of this Province for the like purpose : Provided always, nevertheless, that the Municipal Corporation of any of such Townships, Villages, Towns or Cities shall and may by a By-law to be passed for that purpose, delegate the powers hereby conferred upon them, either to a Committee of their own Members, or to some of their own Members and others, or wholly to persons who are not Members of such Corporation, as in their discretion they shall think best.

Proviso: they may delegate their powers as such.

Provision with respect to existing Market places.

CXXXVIII. And be it enacted, That the places already established by competent authority as markets or market places in the several Villages, Towns and Cities in Upper Canada, shall be and remain markets and market places with all the privileges attached thereto until otherwise directed by competent authority in that behalf, and all market reservations or appropriations which by Act of Parliament or otherwise shall have been and shall then continue vested in the Municipal authority of any such Village, Town or City, or in Trustees for their use and benefit at the time this Act shall come into force, shall be and the same are hereby vested in the Municipal Corporation of such Village, Town or City erected under this Act.

Corporations may purchase property beyond limits of towns, &c., for Industrial Farms, which shall, with regard to jurisdiction be deemed within such Towns.

CXXXIX. And be it enacted, That notwithstanding any thing herein contained, it shall and may be lawful for the Municipal Corporation of any Town or City to purchase, have and hold, and at their pleasure to sell, dispose of and convey such landed property beyond the limits of such Town or City and the Liberties thereof as shall or may, in their judgment, be necessary for the purpose of an Industrial Farm for such Town or City, which Industrial Farm with all the buildings, erections and improvements so to be purchased as aforesaid shall, with regard to jurisdiction only, be deemed and taken to be within the limits of such Town in the case of Towns, and within the Liberties of such City, in the case of Cities, and within the jurisdiction of such Town or City for all such purposes.

Mayor, &c., may commit to hard labor on Industrial Farms.

CXL. And be it enacted, That it shall and may be lawful for the Mayor, Recorder, Police Magistrate, or any two Aldermen or Justices of the Peace for any Town or City erected or to be erected under the authority of this Act, to commit to hard labour at or send to such Industrial Farm, under such regulations as shall be established for the government thereof, any or such description of persons as may by the By-laws of the Corporation of such Town or City, from time to time, be adopted or declared expedient or necessary.

Corporations may purchase real property for cemeteries.

Proviso: the title to cemetery to be obtained under a By-law.

Proviso: no such By-law to be repealed, &c.

CXLI. And be it enacted, That notwithstanding any thing hereinbefore contained, it shall and may be lawful for the Municipal Corporation of any Village, Town or City to purchase, have and hold such and so much real property lying as well beyond as within the limits of such Village, Town or City, or the Liberties thereof, as in their judgment shall or may from time to time be or become necessary for the purpose of one or more public Cemeteries for the interment of the dead: Provided always nevertheless, firstly, that the title to every such Cemetery shall be obtained or accepted by such Municipal Corporation under the authority of a By-law of such Corporation to be passed for that purpose, in which By-law such property shall in express terms be appropriated for the purpose of such Cemetery, and no other: And provided also, secondly, that it shall not be in the power of any such Municipal Corporation, at any time

time thereafter, to repeal any such By-law, or to make or suffer to be made any other use of the property so obtained or accepted than for the purpose of such Cemetery: And provided also, thirdly, that every such Cemetery, although lying beyond the limits of such Village, Town or City as settled by this or any other Act of Parliament, or by any Proclamation to be issued under the authority of the same, shall, from the time that the title shall become vested in such Corporation, cease to be a part of the Township within which it shall lie, and shall become and be a part of such Village, Town or City to all intents and purposes as if such Cemetery lay within the limits of such Village, Town or City as settled by such Act or Proclamation.

Proviso: such cemeteries tho out of the Town, &c., to be deemed part thereof, &c.

CXLII. And be it enacted, That notwithstanding any thing herein contained, it shall and may be lawful for the Municipal Corporation of any Village, Town or City, to purchase, have and hold, and at their pleasure to sell, dispose of and convey such landed property as well beyond as within the limits of such Village, Town or City or the Liberties thereof, as shall or may in their judgment be necessary for the purpose of one or more magazines for the deposit and safe keeping of gunpowder, so as to prevent danger therefrom to any such Village, Town or City.

Corporations of Cities, &c., may purchase property beyond the limits of such cities, &c., for powder magazines.

CXLIII. And be it enacted, That every Municipal Corporation erected or to be erected under the authority of this Act, at the first meeting of such Corporation in each year next after the Head of such Municipal Corporation for such year shall have been elected and sworn into office, shall appoint two persons to be and to be called Auditors of such Corporation, one of whom shall be appointed on the nomination of the Head of such Corporation, and the other in the same manner as other Municipal Officers are appointed: Provided always, firstly, that no person shall be appointed such Auditor who shall be a Member of such Corporation or the Clerk or Treasurer thereof, or who shall have been such Member, Clerk or Treasurer for the preceding year, nor any person who then shall have had for such preceding year, or shall then have directly or indirectly, by himself or in conjunction with any other person, any share or interest in any contract or employment with, by or on behalf of such Corporation; And provided also, secondly, that no person appointed an Auditor for such Corporation shall be capable of acting as such, until he shall have previously made and subscribed before the Head of such Corporation an oath or affirmation in the words or to the effect following, that is to say:

Two Auditors to be appointed by every Municipal Corporation.

Proviso: who shall not be appointed Auditors.

Proviso: Auditors to take an oath.

“I, A. B., having been appointed to the office of Auditor for the Municipal Corporation of _____ do hereby promise and swear, that I will faithfully perform the duties of such office according to the best of my judgment and ability; and I do swear and declare, that I had not directly or indirectly any share or interest whatever in any contract or employment with, by, or on behalf of such Municipal Corporation during the year preceding my appointment, and that I have not any contract or employment for the present year. So help me God.”

The oath.

CXLIV. And be it enacted, That it shall be the duty of such Auditors to examine, settle and allow or report upon all accounts which may be chargeable upon or may concern such Corporation, and which may relate to any matter or thing under the control of, or within the jurisdiction of such Corporation for the year ending on the thirty-first day of December preceding their appointment as such Auditors; and to publish a detailed statement of the receipts and expenditures and liabilities of such Corporation

Auditors to examine all accounts against or concerning Corporation.

To publish a statement of expenditures

and liabilities
of Corporation.

And file a du-
plicate report
thereon with
the Clerk of
the Corpora-
tion.

Corporation in two newspapers published within the jurisdiction thereof, or in those nearest thereto; and to file their report thereon in duplicate in the Office of the Clerk of such Municipal Corporation, which they shall do in at least one month after their appointment, and from thenceforth one of such duplicate reports shall at all reasonable hours be open to the inspection of any inhabitant of such Township, County, Village, Town or City, with power to take by himself, or his clerk or agent, but at his own expense, a copy or copies or an extract or extracts from the same at his pleasure.

Governor in
Council to re-
gulate ferries
over which
this Act does
not confer
jurisdiction
upon Muni-
cipal Councils,
&c.

CXLV. And be it enacted, That as to all ferries over which jurisdiction is not by this Act conferred either upon the Municipal Council of some County or the Common Council of some City, and in all cases in which such jurisdiction is hereby conferred, but in which no By-law shall have been passed by such Municipal Council or Common Council, and assented to as hereinbefore provided, for the regulations of such ferry, and until such By-law shall be passed and assented to as aforesaid, it shall and may be lawful for the Governor of this Province, in Council, from time to time, to regulate such ferries, and to establish the rates of pay or hire to be taken by the owners or conductors of the boats or vessels employed on such ferries.

Writ of Sum-
mons in na-
ture of *quo war-
ranto* to issue
for the trial
of controverted
elections.

CXLVI. And be it enacted, That at the instances of any relator having an interest as a candidate or voter in any election to be held under the authority of this Act, a Writ of Summons, in the nature of a *quo warranto*, shall lie to try the validity of such election, which Writ shall issue out of Her Majesty's Court of Queen's Bench for Upper Canada, upon an order of that Court in term time, or upon the fiat of a Judge thereof in vacation, upon such relator, shewing upon affidavit to such Court or Judge reasonable grounds for supposing that such election was not conducted according to law, or that the party elected or returned thereat, was not duly or legally elected or returned. And upon such relator entering into a recognizance before the said Court or any Judge thereof or before any Commissioner, for taking bail in such Court, himself in the sum of fifty pounds, and two sureties to be allowed as sufficient upon affidavit, by such Court or Judge, in the sums of twenty-five pounds each, conditioned to prosecute with effect the Writ to be issued upon such order or fiat, and to pay to the party against whom the same shall be brought, his executors or administrators, all such costs as shall be adjudged to such party against him the said relator, thereupon such Writ shall be issued accordingly: and the said Writ shall be returnable upon the eighth day after that on which it shall be served on such party by the delivery of a copy thereof to him personally, or in the manner hereinafter provided for before some one of the Judges of the said Court at Chambers, which Judge shall have power, upon proof by affidavit of such personal or other service, and he is hereby required to proceed in a summary manner upon statement and answer, and without formal pleadings, to hear and determine the validity of such election, and to award costs against the relator or defendant upon such Writ as he shall deem just.

Security.

Return of
Writ and pro-
ceedings there-
on.

Costs.

On first Court
day after
judgment
Judge shall
deliver Writ
and judgment
into Court,
and the same
shall be en-
forced by per-
emptory *Man-
damus*, &c.

CXLVII. And be it enacted, That on the first day on which such Court shall sit after such judgment shall be given by such Judge, whether such day shall be in the same or the following Term, the said Judge shall deliver such Writ and judgment with all things had before him touching the same into such Court, there to remain of record as a judgment of the said Court, as other judgments rendered therein, and such judgment shall thereupon be enforced by peremptory *Mandamus* and by such Writs of Execution for the costs awarded by such judgment as occasion shall or may require.

CXLVIII.

CXLVIII. And be it enacted, That in case the party against whom such Writ of Summons shall be brought shall keep out of the way to avoid personal service thereof on him as aforesaid, it shall and may be lawful for the Judge before whom the same is returnable, upon being satisfied thereof upon affidavit, to make an order for the service of such Writ either by the leaving a copy thereof at the dwelling-house of such party with his wife or other grown-up person there, or in any other manner that such Judge shall deem the ends of justice to require according to the circumstances laid before him upon affidavit for that purpose, and upon service of such Writ being made according to such order and proof thereof by affidavit, it shall be lawful for such Judge and he is hereby required to proceed thereupon as if the said Writ of Summons had been served personally on the party.

How service of the Writ may be made when the party keeps out of the way.

CXLIX. And be it enacted, That where two or more of such Writs shall be brought to try the validity of the same election, all such Writs after the first shall be made returnable before the same Judge before whom such first Writ shall have been made returnable, and such Judge shall proceed upon such Writs by giving separate judgments upon each, or one judgment upon all as the justice of the case may in his opinion require.

Provision when several Writs issue to try the same election.

CL. And be it enacted, That it shall be lawful for every such Judge to cause the Collector's Rolls, Poll Books and any other Records of such Election to be brought before him by *Certiorari*, and upon the trial of the validity of such election upon any such Writ, such Judge shall enquire into the facts to be established by personal evidence either by affidavit or affirmation, or by oral testimony taken before him as at *Nisi Prius*, or by issues to be framed by him for that purpose, and to be sent to be tried by Jury by Writ of Trial to be directed to such Inferior Court of Civil Jurisdiction as shall be named by such Judge for that purpose, not however being one having jurisdiction in or over the locality for which such election shall have been held, or by one or more of those methods of enquiry as such Judge shall deem the ends of justice to require.

Judge may cause Collector's Rolls, Poll Books, &c., to be brought before him by *certiorari*, and ascertain facts by evidence, &c.

CLI. And be it enacted, That no *Mandamus* or other Writ of Execution shall issue upon any such judgment until the same shall have been in the possession of the Court for four days in term time, one of such days being that on which the same shall have been so delivered in as aforesaid, nor while any rule shall be pending for the reversal or alteration of such judgment by such Court as hereinafter provided.

Execution not to issue till four days in term time after judgment.

CLII. And be it enacted, That every such preliminary judgment, so to be given by any such Judge as aforesaid, shall be examinable by such Court in term time, on an application for that purpose made within such four days, either by the party against whom such preliminary judgment was given, or by any other party interested either as Voter or Candidate in such election, and the same may be thereupon reversed, altered or affirmed by such Court either with or without costs to be paid by the party against whom the decision of the Court upon such application shall be given, as in the judgment of such Court the Law of the Land shall require.

Judgments to be examinable in term time on application made within four days.

CLIII. And be it enacted, That it shall and may be lawful for Her Majesty's said Court of Queen's Bench for Upper Canada, by any rule or rules to be by such Court made for that purpose in term time, to settle the forms of such Writs of Summons, *Certiorari*, *Mandamus* and execution as aforesaid, and to regulate the practice respecting the

Court of Q. B. to settle forms of Writs of Summons, practice, costs, &c.

the suing out service and execution of such Writs, and the punishment of those guilty of contempt in disobeying the same, and also generally for the regulation of the practice as well at Chambers as in Banc, in hearing and determining the validity of such elections as aforesaid, and the allowance of costs thereupon, and also from time to time by any new rule or rules to be made as aforesaid, to rescind, alter or amend such rule or rules or make others in lieu thereof, in like manner as they are now by Law empowered to do for the regulation of the practice of the Court in matters within its ordinary jurisdiction.

Provision when there is no proper Officer to hold an election.

Proviso.

CLIV. And be it enacted, That if the person whose duty it shall be, according to the provisions of this Act, or by virtue of any appointment made under it, to hold any election under the authority of the same, shall be absent at the time appointed for any such election, or if there shall be no such person, or such person be dead, it shall be lawful for the persons then and there assembled and entitled to vote at such election, to appoint from amongst themselves a Returning Officer, who shall forthwith proceed to hold such election in lieu of such other first mentioned person: Provided always, nevertheless, that the appointment of such substituted Returning Officer shall not be made until at least one hour after the hour appointed by lawful authority for commencing the proceedings at such election.

Parties interested may require of Town Clerks, &c, copies of By-laws on paying a reasonable fee therefor.

Court of Q. B. may be moved to quash any By-law.

Proceedings thereon.

Provision as to actions for things done under By-laws.

Amends may be tendered.

CLV. And be it enacted, That it shall be lawful and competent to and for any resident of any Township, Village, Town, City, or County in Upper Canada aforesaid, in which any By-laws shall be passed, or for any other person having an interest in the provisions of such By-law, to apply by himself, or by his Attorney, for a certified copy of such By-law, and the Township, Town, Village, County or City Clerk shall, upon such application and upon payment to him of his fee therefor, within a reasonable time, furnish a copy of such By-law certified under his Hand and the Seal of the Municipal Corporation of which he is the Officer, and the Court of Queen's Bench for Upper Canada may be moved, upon production of such copy, and upon affidavit that the same is the copy received from such Township, Town, Village, County or City Clerk, to quash such By-law; and if it shall appear to the said Court, that such By-law is in the whole or in part illegal, it shall and may be lawful upon proof of service of a rule upon the Corporation, to shew cause, within not less than eight days after such service, why such By-law should not be quashed in the whole or in part, to order such By-law to be quashed in the whole or in part: and if it shall appear to the said Court that such By-law is legal, in the whole or in the part complained of, to award costs in favor of the Corporation, or otherwise against such Corporation; and that no action shall be sustained for or by reason of any thing authorized to be done under any such By-law, unless such By-law or the part thereof under which the same shall be done, shall be quashed in manner aforesaid one calendar month previously to the bringing such action; and if such Corporation, or any person sued for acting under such By-law, shall cause amends to be tendered to the Plaintiff or his Attorney, and upon such tender being pleaded, no more than the amends tendered shall be recovered, it shall and may be lawful for the said Court to award no costs in favor of the Plaintiff, and to award costs in favor of the Defendant, and to adjudge that the same shall be deducted out of the amount of the verdict.

Saving of present By-laws of exist-

CLVI. And be it enacted, That all the By-laws of the different Municipal Corporations in Upper Canada remaining unrepealed at the time this Act is appointed to

to come into force shall continue in force until amended, altered or repealed by some By-law or By-laws to be passed for that purpose by the Municipal Corporation by this Act substituted for such former Municipal Corporation; Provided always nevertheless, that the provision contained in the next preceding section of this Act, for trying the validity of By-laws to be passed by the Municipal Corporations erected under this Act, shall extend and apply to all such By-laws of such former Corporations, and shall and may be certified by the proper Officer of the Corporation erected under this Act as if they had been By-laws passed under the authority of the same; Provided always nevertheless, that nothing herein contained shall extend or be construed to extend to confirm or render valid any By-law which would not have been valid had this Act not been passed.

ing Corporations, until repealed.
 Proviso: next preceding section to apply to them.

Proviso.

CLVII. And be it enacted, That each and every Returning Officer who shall hold any election under this Act, shall, during such election, act as a Conservator of the Peace for the County in which such election shall be holden, and he or any Justice of the Peace for such County, or for the Town or City in which such election shall be holden, shall and may arrest or cause to be arrested, and may try summarily, imprison or bind over to keep the peace or for trial, or cause to be summarily punished by fine or imprisonment, or both, any riotous or disorderly person or persons who shall assault, beat, molest or threaten any voter or elector coming to or going from such election; and when thereunto required, all Constables and other persons present at such election, are enjoined to be assisting such Returning Officer and such Justice or Justices of the Peace, on pain of being held guilty of a misdemeanor; and such Returning Officer or such Justice or Justices shall and may, when he or they consider it necessary, appoint and swear in any number of Special Constables to assist in preserving the peace and order at such election.

Returning Officers to act as Conservators of the peace during elections.

Constables, &c., to assist if required.

CLVIII. And be it enacted, That any person liable to serve the office of Constable, and so required to be sworn in as Special Constable by any such Returning Officer, shall, if he shall refuse to be sworn in as such, be liable to a penalty of five pounds currency, to be recovered to his own use in any Court of competent jurisdiction, by him who will sue for the same.

Penalty against persons refusing to serve as Special Constables.

CLIX. And be it enacted, That each election to be held under this Act shall commence at the hour of eleven of the clock in the forenoon of the day for which such election is appointed, and may be held until the hour of four of the clock in the afternoon of the same day, and may then be adjourned until ten of the clock in the forenoon of the next day, and continue until four of the clock in the afternoon of such second day, unless the Returning Officer shall see that all the electors intending to vote have had a fair opportunity of being polled, and one full hour at one time shall have elapsed, and no qualified elector shall, during such time, give or tender his vote, free access being allowed to electors for such purpose, in which case he may close the election at four o'clock of the first day, or at any time before that hour on the second day.

Hours of holding elections.

Adjournments.

If no elector offers to vote in one hour.

CLX. And be it enacted, That the Returning Officer at each of the said elections at which a poll shall be called for, shall keep a poll book, in which he, or his sworn Poll Clerk shall enter in separate columns the names of each of the persons proposed and seconded as candidates by any electors present at such election; and opposite to such columns, he shall write the names of the several electors offering to vote at such election,

Returning Officer to keep Poll Book, and in what form

election, and in the respective columns in which are entered the name of the candidate voted for by each voter, he shall set the number one, and at the close of the poll such Returning Officer shall add up the number of voters for each candidate set down in their respective columns, and he shall declare which of the said candidates have the highest number of votes, beginning with the one having the greatest number, and so on until the whole number of candidates to be elected at such election having a greater number of votes in favor of each respectively than the remaining candidates shall appear, and he shall publicly declare the requisite number of candidates duly elected; and if any two or more candidates shall appear to have an equal number of votes, by reason of which equal number the election appears undecided, the Returning Officer, whether otherwise qualified or not, shall give a vote for one or more of the candidates having equal numbers, so as to decide the election: Provided always, that no Returning Officer under this Act shall vote at any election which it shall be his duty to hold, except in the case of such equality of votes as aforesaid.

He shall declare the Candidates elected.

And shall have a casting vote in case of ties.

Proviso: he shall not otherwise vote.

Returning Officer to return Poll Book to Township Clerk, &c. after election.

CLXI. And be it enacted, That after the close of any such election, the Returning Officer shall return the poll book to the Township, Village, Town or City Clerk of the Township, Village, Town or City in which the election has been holden, with an affidavit or affirmation thereto annexed, that such poll book contains a faithful and true statement of the poll, and with a certificate that certain persons, naming them, have been duly elected.

If the person elected refuses to take office, a Warrant shall issue for a new election.

CLXII. And be it enacted, That in case any of the persons so declared to be elected, shall neglect or refuse to accept office, or to be sworn or affirmed into office, within the time in which the oath or affirmation of office is required to be taken as hereinbefore provided, then the Head of such Municipal Corporation for the preceeding year shall forthwith by Warrant under his hand and seal, directed to the Returning Officer, require him to hold a new election to supply the place of such person, which such Returning Officer shall accordingly do within at least eight days after the receipt of such Warrant, and the person who shall be elected upon such Warrant shall be entitled and bound to be sworn or affirmed as Councillor, in the place of the person refusing office, or neglecting or refusing to be sworn or affirmed as aforesaid; Provided always nevertheless, that the necessity for such second election shall not prevent or interfere with the immediate organization of the Municipal Corporation for the year, or their proceeding to business as if such seat were not vacant.

Proviso: the Corporation may immediately proceed to business.

Vacancies in Municipal Corporations how to be filled.
Proviso as to terms of office.

CLXIII. And be it enacted, That all vacancies which may occur in any of such Municipal Corporations, by death or otherwise, shall be filled by an election to be held under a Warrant directed to the Returning Officer under the hand and seal of the Head of such Municipal Corporation: Provided always, that the person so appointed shall hold his seat in such Corporation by virtue of such appointment for the residue of the term for which his immediate predecessor was elected, and no longer.

As to notice of special elections.

CLXIV. And be it enacted, That all such Special Elections as are provided for by the two next preceding sections of this Act, shall be held upon at least four days' public notice to the Electors under the hand of the Returning Officer, and posted in at least four of the most public places in the Township, Village or Ward for which it is to be held.

CLXV. And be it enacted, That if in any year there shall be no election held in any Township, Village, Town or Ward, on the appointed day, or if a requisite number of candidates shall not have been elected, or if there shall not be in the poll book the names of a sufficient number of candidates to supply any deficiency arising from refusal of office, or neglect or refusal to be sworn in, then, and in every such case, it shall and may be lawful for the members of the Municipal Corporation in which such default of members shall occur, or if none be elected, then, for the members of such Municipal Corporation for the next preceding year, or the majority of them respectively, and they are hereby required to supply the deficiency by appointing the whole number of Aldermen and Councillors, when the whole number shall be deficient, from amongst the qualified freeholders and householders of the Township, Village, Town or City, or by appointing such a number of qualified freeholders and householders of such Township, Village, Town or City as will complete the full number of Aldermen and Councillors for the same, and the persons so appointed shall be bound to accept office, and to be sworn in, under the same penalty as if elected.

Provision in case of no election being held on an appointed day.

Appointment of Aldermen and Councillors.

CLXVI. And be it enacted, That if there shall be any vacancy or vacancies in the offices of Warden, Mayor or Townreeve, by reason of the death or removal of residence of any such officer, the respective Municipal Corporations in which such vacancy shall occur, shall and may respectively choose, from amongst their own number, a qualified person to be a Warden, Mayor, or Townreeve, as often as the case may occur.

Vacancies in offices of Warden, Mayor, &c., how to be filled up.

CLXVII. And be it enacted, That the Municipal Corporation in office on the day of general annual municipal elections, including all Councillors so appointed to make up deficiencies, shall hold office until their successors shall be elected or appointed and sworn into office, and the new Municipal Corporation shall be completed.

Corporations in office to hold until their successors are elected and sworn in.

CLXVIII. And be it enacted, That at any session or meeting of any Municipal Corporation under this Act, a majority of the whole number of those who shall by law form such Corporation, shall be a quorum for the dispatch of business; and if the person who ought to preside at any such meeting shall be absent, it shall and may be lawful for those present to appoint from amongst themselves a Chairman to preside at such meeting, and the Chairman so appointed shall have the same functions and authority in presiding at such meeting as the person who, if present, would preside at such meeting; and all votes, resolutions and proceedings of such meetings shall be carried by the majority of votes of the persons composing such meeting, other than the person presiding, who, in case of an equality of votes, shall have the casting vote.

A majority of the whole number of members to form a quorum.

Temporary Chairman in certain cases. Majority.

Casting vote.

CLXIX. And be it enacted, That it shall be the duty of each of such Municipal Corporations to appoint a County, City, Town, Township or Village Clerk, as the respective cases may require, who shall hold office during their pleasure, and who shall be paid by such salary as they shall appoint, to be taxed and levied upon the whole rateable property in such County, City, Town, Township, or Village respectively, according to the assessment laws then in force in Upper Canada.

County Clerks, &c., to be appointed, to be paid by salary levied upon rateable property.

CLXX. And be it enacted, That it shall be the general duty of such Clerk to record in a book to be provided for that purpose, all the proceedings of the Municipal Corporation of which he shall be Clerk, and to make regular entries of all resolutions and decisions, and to record the vote of every person present entitled to vote on every question

Clerk to keep records of proceedings of Corporation, &c.

question submitted, if required by any member present, and to preserve and file all accounts acted upon by the body to which he is Clerk, and to keep the books, records and accounts of such body, which shall be open without fee or reward to the inspection of all persons, at all seasonable times and hours.

A Treasurer to be appointed for each County, &c., and a Chamberlain for each City. Their salary or per centage to be levied on rateable property. Security.

CLXXI. And be it enacted, That it shall be the duty of the Municipal Corporations of the respective Counties, Towns, Townships and Villages to appoint a Treasurer, and of the Municipal Corporations of the respective Cities to appoint a Chamberlain of the same respectively, who shall hold office during their pleasure, and shall be paid by such salary or per centage as they shall appoint, (to be raised and levied rateably upon the whole rateable property of such County, City, Town, Township or Village respectively, according to the assessment laws then in force in Upper Canada,) and who shall give such security for the faithful performance of the duties of his office, and more especially for the due accounting for and paying over all moneys which shall come into his hands by virtue of his office, as the Municipal Corporation by which he was appointed shall direct.

Duties of Treasurers and Chamberlains.

CLXXII. And be it enacted, That it shall be the duty of each of such Treasurers and Chamberlains to receive and safely keep all moneys belonging to the County, City, Town, Township or Village for which he shall be appointed, and to pay out the same to such persons and in such manner as he shall be directed to do by any lawful order of the Municipal Corporation thereof, or by any law in force or to be in force in Upper Canada, and strictly to conform to and obey any such law or any By-law lawfully made by any such Municipal Corporation, and faithfully to perform all such duties as may be assigned to him by any such law or By-law.

Clerks, &c., to hold Office until removed by Corporation.

CLXXIII. And be it enacted, That the Clerk, Treasurer and Chamberlain so to be appointed by any Municipal Corporation as aforesaid, as well as all other officers to be appointed in like manner, and with regard to whose period of service no other provision is made by this Act or in any other law or By-law, shall hold their offices until removed therefrom by the Municipal Corporation for the time being, notwithstanding any change in the persons of whom such Municipal Corporation shall be composed, occasioned by any new election or appointment.

Books, &c., of present District Treasurers to be deemed chattel belonging to the different Municipal Corporations.

Punishment of Officers embezzling or refusing to deliver the same, to the proper parties.

CLXXIV. And be it enacted, That all the books of the present District Treasurers, and all books, papers, accounts or documents of what kind soever, which shall have been kept by or shall have come into the possession of any person or officer to be appointed or employed by any Municipal Corporation, by virtue of his office or employment, shall be deemed to be chattels belonging to such Municipal Corporation; and all moneys or valuable securities which shall have been lawfully received or taken into his possession by virtue of his office or employment, shall be deemed to be moneys or valuable securities belonging to such Municipal Corporation; and if any such officer or person shall at any time fraudulently embezzle any such chattel, money or valuable security, (and any refusal or failure to pay over or deliver up any such chattel, money or valuable security to such Municipal Corporation, or to any officer or person by them authorized to demand the same, shall be held to be a fraudulent embezzlement thereof,) he may be indicted and proceeded against, and being convicted thereof, shall be liable to be punished in the same manner as any servant who having fraudulently embezzled any chattel, money or valuable security received or taken into his

his possession, by virtue of his employment, for and in the name and on the account of his master, may be indicted, proceeded against and punished: Provided always, that nothing herein contained shall prevent, lessen or impeach any remedy which such Municipal Corporation, or any other party may have against such offender or his sureties, or against any other party whomsoever; but nevertheless, the conviction of any such offender shall not be received in evidence in any suit or action at law or in equity against him.

Proviso: other remedies not to be lessened.

CLXXV. And be it enacted, That the Corporation created or to be created in and for any County or union of Counties, City, Town, Township or Village, by this Act, or under any provision therein contained, shall be substituted for and shall be in the place and stead of the Corporation theretofore existing in and for the same County or union of Counties under the name of District, City, Town, Township, Village or place by virtue of any Act or law in force immediately before the commencement of this Act, and so that any suit, action, prosecution or other act, matter or thing, commenced or continued by such former Corporation, or to which it shall have been a party, shall not abate, but may be continued and completed by, with or against such new Corporation, in like manner and as validly to all intents and purposes as it might have been continued or completed by, with or against such former Corporation, and so that all estates and property, real or personal, and all debts and obligations of any kind, theretofore vested in or belonging to or due, or owing to or contracted in favor of such former Corporation, or the locality over which its jurisdiction shall extend, whether in the name of such Corporation or locality, or in that of some Officer thereof, and intended for the benefit of such Corporation or locality, shall thereafter be vested in and shall belong to and shall be due and owing to, and may be held, possessed and enjoyed, recovered and enforced by such new Corporation, and all debts, liabilities and obligations of such former Corporation, of what kind soever, or in what manner soever secured, shall become debts, liabilities and obligations of such new Corporation, secured and payable in like manner, and upon the same terms and conditions, and to be recovered and enforced if not paid or performed, in the same manner as they would have been recovered from or might have been enforced against such former Corporation or otherwise, as by this Act provided.

Corporations created under this Act to be substituted for Corporations theretofore existing—and suits commenced by former Corporations may be continued by the new Corporations, and *vice versa*.

CLXXVI. And be it enacted, That it shall be the duty of every such Municipal Corporation to take charge of any debt which may be due by the locality over which it has jurisdiction, and to direct the levy by tax upon the same, of such sum in each year as shall be necessary for the payment of the interest thereon, and as shall be sufficient to pay off the principal, according to the contracts and obligations which shall have been entered into in that behalf: and where any sum of money in the pound is by any Act of the Parliament of Upper Canada, or of this Province directed to be levied for the payment of any such debt or for any other special purpose, it shall be the duty of such Municipal Corporation, until the debt shall be paid or the purpose fully served for which such Act was passed, or until the service contemplated by such Act shall be otherwise provided for, or the Act repealed, to cause to be levied in each year upon such locality, a sum at least equal to the highest sum which shall have been raised for the same purpose in any one year before the passing of this Act.

Corporations to take charge of debts due by localities under their jurisdiction, and provide for their payment.

What rates shall be levied for paying such Debts, in certain cases.

CLXXVII. And be it enacted, That it shall be the duty of such Municipal Corporations respectively, to cause to be assessed and levied upon the whole rateable property

A sufficient sum to be levied by assess-
in

ment for pay-
ment of all
such debts,
and interest.
By-laws crea-
ting or autho-
rizing any
debt not to be
valid unless
sufficient pro-
vision be there-
in made for
levying moneys
for the
payment of
such debt,
within twen-
ty years.
Such By-law
not repealable,
&c.

Proviso: how
any temporary
surplus of
such moneys
may be invest-
ed.

By-laws for
raising loans,
&c., shall not
be repealed or
altered until
the loans and
interest there-
on are fully
paid.

Punishment of
Officers refus-
ing to execute
such By-law.

Duty of Sher-
iffs with res-
pect to Writs
of Execution
against Muni-
cipal Corpora-
tions, if endor-
sed to be lev-
ied by rate.

in their Counties, Cities, Towns, Townships and Villages respectively, a sufficient sum of money in each year, to pay all debts incurred or which shall be incurred, with the interest which shall fall due or become payable within the year; and no By-law hereafter to be passed for the creation of any such debt, or for the negotiation of any loan, shall be valid or effectual, to bind any such Municipal Corporation, unless a special rate per annum over and above, and in addition to all other rates whatsoever shall be settled in such By-law, to be levied in each year for the payment of the debt to be created by the loan to be negotiated, nor unless such special rate shall be sufficient according to the amount of rateable property in such County, City, Town, Township, or Village, as the case may be, as shall appear by the then last assessment returns of such County, City, Town, Township or Village, to satisfy and discharge such debt, with the interest thereof, within twenty years from the passing of such By-law, and it shall not be competent to any such Municipal Corporation, to repeal such By-law, or to discontinue such rate, until the debt so to be incurred and the interest thereon shall be fully paid and discharged; nor to apply the proceeds thereof to any other purpose than the payment and satisfaction of the same; Provided always, nevertheless, that in the event of there being any part of such special rate on hand, and which cannot be immediately applied towards the payment and satisfaction of such debt by reason of no part thereof being then payable, it shall be the duty of such Municipal Corporation, and they are hereby required to invest such money in the Government Securities of this Province or in such other Securities as the Governor of this Province shall by order in Council direct or appoint, and to apply all interest or dividends to arise or be received upon the same to the like purpose, as the amount so levied by such special rate, and no other.

CLXXVIII. And be it enacted, That any By-law by which it shall be attempted to repeal any such By-law for raising any such loan, or for the payment and satisfaction of the debt contracted for any such loan or to alter any such last mentioned By-law so as to diminish the amount to be levied for the payment and satisfaction of such loan or the interest thereof, until such loan and interest shall be fully redeemed, paid and satisfied, shall be and the same is hereby declared to be absolutely null and void to all intents and purposes whatsoever, and if any of the Officers of such Municipal Corporation shall, under pretence of such pretended By-law, neglect or refuse to carry into effect and execution the said By-law for levying the necessary moneys to redeem, satisfy and discharge such loan and the interest thereof, every such Officer shall be deemed guilty of a misdemeanor, and shall be punished by fine or imprisonment, or both, at the discretion of the Court whose duty it shall be to pass the sentence of the law upon such offender.

CLXXIX. And be it enacted, That it shall be the duty of every Sheriff who shall receive a Writ of Execution against any Municipal Corporation created or to be created under the authority of this Act, if such Writ shall be endorsed with a direction to such Sheriff to levy the amount thereof by rate, to deliver a copy of such Writ of Execution and endorsement to the Chamberlain or Treasurer of such Municipal Corporation, or to leave such copy at the office, place of business or dwelling house of such Chamberlain or Treasurer, with a statement in writing of his fees, and the whole amount for principal, interest and costs required to be paid to satisfy such execution, calculated to the day of the service of such copy as aforesaid, or some day as near as conveniently may be to the same, and in case such amount, with interest thereon from
the

the day mentioned in such statement, shall not be paid to such Sheriff within one calendar month after such service, it shall be the duty of such Sheriff to examine the adjusted and settled assessment rolls of such Municipal Corporation, on file in the office of the Clerk of such Corporation, and to strike a rate upon the same in like manner as rates may be struck by such Municipal Corporation for the general Municipal purposes of such Corporation, which rate shall be of a sufficient amount in the pound according to such assessment rolls to cover the amount so due on such execution, with such addition to the same as in the judgment of such Sheriff shall be sufficient to cover the interest, Sheriff's fees, and Collector's per centage to accrue thereon to the time when such rate shall probably be available for the satisfaction of the same: And thereupon, such Sheriff shall, by a precept or precepts under his Hand and Seal of Office, directed to the different Collectors of such Municipal Corporation respectively, reciting such Writ of Execution, and that such Municipal Corporation had neglected to make provision according to Law for the satisfaction thereof, and containing the roll of such rate in a Schedule to be annexed to such precept, command such Collectors respectively, to levy and collect such rate within their respective jurisdictions, at the time and in the manner that they are by Law required to levy and collect the annual rates for the general purposes of such Municipal Corporation, and if at the time for levying and collecting such annual rates next after the receipt of any such precept, such Collectors shall have a general rate roll delivered to them for such year, it shall be their duty to add a column thereto, headed: "Execution rate in A. B. *vs. The Township,*" (or as the case may be, adding a similar column for each execution if more than one,) and to insert therein the amount by such precept required to be levied upon each person respectively according to the requirements of such precept, and to levy and collect the amount of such Execution rate from such persons respectively, in the same manner as such general annual rate is by law directed to be levied and collected by such Collectors, and to return such precept with the amount so levied and collected thereon, after deducting his per centage therefrom, to such Sheriff within the same time as such Collectors are or shall by law be required to make the returns of the general annual rate aforesaid to the Chamberlain or Treasurer of such Municipal Corporation; Provided always nevertheless, firstly, that any surplus that shall remain in the hands of such Sheriff upon any such precept or precepts, after satisfying such Execution, and all interest, costs and fees thereon, shall by such Sheriff be paid over to the Chamberlain or Treasurer of such Municipal Corporation within ten days after the same shall be so received by him, and be applicable to the general purposes of such Municipal Corporation as the surplus of any other rate: And provided also, secondly, that the Clerk of such Municipal Corporation, and the several Assessors and Collectors of such Corporation, shall, for all purposes in any way connected with the carrying into effect or permitting or assisting such Sheriff to carry into effect the provisions of this Act, with respect to the satisfaction of any such execution, be taken and deemed to be Officers of the Court out of which such Writ of Execution issued, and as such shall be amenable to such Court, and may be proceeded against by Attachment or otherwise to compel the performance of the duties hereby imposed upon them as any other Officers of such Court may by law be proceeded against for a similar purpose.

CLXXX. And be it enacted, That every such Municipal Corporation shall, annually, on or before the thirty-first day of January in each year, transmit to the Governor General of the Province, through the Provincial Secretary thereof, in such form as shall from time to time be prescribed for that purpose, by any order of the Governor in Council,

Precepts to be issued to the Collectors.

Duty of Collectors under such precepts.

Return of precept.

Proviso as to surplus in hands of Sheriff after satisfying execution.

Proviso: Clerk and Assessors, &c., of Corporation to be considered as Officers of Court from which Writ issued, for certain purposes.

An annual account of debts of each Municipal Corporation to be submitted

to the Governor General. Particulars in such account.

Council, an account of the several debts of such Corporation as they may have stood on the thirty-first day of December preceding, specifying in such account the original amount of every such debt of which a balance remained due at that day, the date when such debt was contracted, the day of payment, the amount of interest to be paid therefor, the amount of the rate provided for the redemption and satisfaction of such debt and interest, the proceeds of such rate for the year ending on such thirty-first day of December, the amount of such original loan redeemed and satisfied during such year, the amount of interest, if any, unpaid on such day, and the balance still due on the principal of such loan.

Provision for the appointment of a Commission to investigate financial affairs of Municipal Corporations upon due cause shewn.

Powers of the Commissioners.

Act of Canada 9 V. c. 38. cited.

As to expenses of Commission.

CLXXXI. And be it enacted, That upon the petition of one third or upwards of the members of any Municipal Corporation created or to be created under the authority of this Act, it shall and may be lawful for the Governor of this Province if sufficient cause be shewn, by order in Council, to issue one or more Commission or Commissions under the Great Seal of this Province directed to such person or persons as he shall think fit, empowering them to inquire into the financial and monetary affairs of such Municipal Corporation and all things connected therewith, and the person or persons so named in such Commission or Commissions, or as many of them, as shall be thereby empowered to act in the execution thereof, shall have all such powers for the conducting such inquiry now by law vested in Commissioners of Inquiry appointed under the Act of the Parliament of this Province passed in the ninth year of the reign of Her Majesty Queen Victoria, chapter thirty-eight, intituled, *An Act to empower Commissioners for inquiring into matters connected with the public business to take evidence on oath*; and the expense of executing every such Commission of Inquiry to be settled and allowed by the Inspector General of this Province for the time being or his Deputy, shall be borne by such Municipal Corporation, and so soon as the same shall be so settled and allowed as aforesaid, shall be a debt due to the Commissioner or Commissioners named in such Commission, to be provided for and paid by such Municipal Corporation as any other debt due by them in their corporate capacity, and upon default in payment of the same within three calendar months from the same having been demanded by such Commissioner or Commissioners, or any one of them, at the office of the Chamberlain or Treasurer of such Municipal Corporation, shall be recoverable against such Municipal Corporation as any other debt.

As to debts due by Municipal Corporations prior to 1st January, 1849: a By-law may be passed with approval of the Governor in Council, &c.

Provide as to Corporations which have lawfully issued

CLXXXII. And be it enacted, That with respect to any debt *bonâ fide* due by any District Municipal Council, City, Town or Village Council or Board of Police in Upper Canada prior to the first day of January, one thousand eight hundred and forty-nine, it shall and may be lawful for the Municipal Corporation by this Act substituted for such District Municipal Council, City, Town or Village Council or Board of Police, at any time within one year after the time appointed for this Act to commence, to pass a By-law providing for the liquidation of such debt, and upon such By-law being approved by the Governor of this Province in Council, none of the provisions of this Act by which increased facilities are provided for the recovery of debts due by such Municipal Corporation shall be applicable to such debts or any of them, until after default shall be made by such Municipal Corporation in raising the necessary funds for the discharge of such debts, or in applying such funds when so raised to the discharge of the same according to the provisions of such By-law; Provided always nevertheless, first, that nothing herein contained shall extend or be construed to extend, to prevent any such Corporation in any such By-law where such Corporation may have heretofore issued

Promissory

Promissory Notes or Debentures to pass as money and which are still in circulation to provide some mode for their gradual extinction by redeeming a certain portion thereof annually, and by substituting other Promissory Notes or Debentures in the place of such as remain unredeemed from time to time as they fall due, when the holders thereof are willing to receive the same in exchange till the whole of such Notes or Debentures are fully and completely redeemed and satisfied according to the provisions of such By-law ; And provided also, secondly, that nothing herein contained shall extend or be construed to extend to deprive any of the Creditors of such Municipal Corporation of all such remedies as they now by Law possess for the recovery of such debts against the District Municipal Council, City, Town or Village Council, or Board of Police, which they may be owed, all which remedies they shall continue to have against the Municipal Corporations, substituted for such District Municipal Council, City, Town or Village Corporation.

Notes of Debentures intended to pass as money.

Proviso: present remedies of creditors not to be impaired.

CLXXXIII. And be it enacted, That it shall not be lawful for any of the Municipal Corporations to continue or be incorporated under the authority of this Act to act as Bankers, or to issue any Bond, Bill, Note, Debenture or other undertaking, of what nature or kind soever, or in what form soever, in the nature of a Bank Bill or Note, or for the payment of any money intended to form a circulating medium to supply the place of specie, or otherwise pass as money ; nor shall it be lawful for any of such Municipal Corporations to make or give any Bond, Bill, Debenture or other undertaking for the payment of any loan contracted by such Corporation, or of any debt due by such Corporation, or of any part of such loan or debt, of a less amount than twenty-five pounds of lawful money of Canada ; and if any such first mentioned Bond, Bill, Note, or Debenture or other undertaking, shall be issued or put in circulation by any such Municipal Corporation, or under its direction or authority, or under the direction or authority of any of its officers or servants, or of any other person or persons whomsoever, or if any such last mentioned Bond, Bill, Debenture or other undertaking, shall be made or given by any such Municipal Corporation for the payment of a less amount of money than twenty-five pounds as aforesaid, every such Bill, Bond, Note, Debenture or undertaking, shall be absolutely null and void to all intents and purposes whatsoever ; Provided always nevertheless, that nothing in this section contained shall extend or be construed to extend, to any Bond, Bill, Note, Debenture or other undertaking, to be issued under the authority of any such By-law as shall or may be passed with the consent of the Governor of this Province in Council, for providing for the payment and satisfaction of certain debts mentioned in the last preceding section of this Act.

Municipal Corporations not to act as Bankers or to issue Bonds, &c., to pass as money.

Nor give any Bond, &c., of a less amount than £25.

Penalty for contravening this section.

Proviso as to Bonds, &c., issued with approval of Governor in Council.

CLXXXIV. And be it enacted, That every person who shall issue or make, or assist in the issuing or making of any such Bonds, Bills, Notes, Debentures, or undertakings for the payment of money contrary to the provisions of the next preceding section of this Act, and every person who shall knowingly utter or tender in payment or in exchange, any of such Bonds, Bills, Notes, Debentures or undertakings for the payment of money, shall be guilty of a misdemeanor, as provided in and by the third section of the Act of the Parliament of the late Province of Upper Canada, passed in the seventh year of the reign of His late Majesty King William the Fourth, Chapter thirteen, and intituled, *An Act to protect the public against injury from Private Banks.*

Any person issuing, making or uttering Bonds contrary to this Act, to be guilty of misdemeanor.

Act of U. C. 7 W. 4. c. 13.

CLXXXV. And be it enacted, That all persons committing any offence against any By-law lawfully made by any Municipal Corporation under the authority of this Act,

Punishment of persons offending against By-

laws, where no other provision is made, and how enforced.

Penalty how levied.

How applied.

Proviso: prosecution may be brought in name of Corporation.
Proviso as to Members of the Corporation being Justices of the Peace.

Officers, &c., of Corporation, competent witnesses and jurors, in cases in which the Corporation shall be a party.

Corporations not to stop up original allowances for roads.

When any other road is altered, the site of the old road may be sold by Corporation to the party next whose land it runs, &c.

Proviso: who

Act, and with regard to prosecutions for which no other provision is hereby made, may be prosecuted in a summary way before any one or more Justices of the Peace, having jurisdiction within the locality in which the offender shall be resident, or within that in which the offence was committed, and such Justice or Justices, or other authority, before whom any conviction for any such offence shall be had (and any such offender may be convicted on the oath or affirmation of any competent witness other than the prosecutor or informer) shall have full power and authority to award the penalty or the imprisonment, as the case may be, imposed by the By-law under which the conviction shall be had, with the costs of prosecution, against the offender, and to commit the offender to the common gaol if the offence be punishable by imprisonment, and to cause the penalty to be levied with costs, if not forthwith paid, by distress and sale of the goods and chattels of the offender, by Warrant under the hand and seal of such Justices or one of them, or of the Chairman or Presiding Officer of the Court before whom such conviction was had; and one moiety of any such pecuniary penalty shall go to the informer or prosecutor, and the other moiety shall be paid to the Treasurer or Chamberlain of the Corporation against the By-law whereof the offence shall have been committed, and shall form part of the funds at the disposal of such Corporation: Provided always, firstly, that any such prosecution may be brought in the name and on the behalf of such Corporation as aforesaid, and in that case the whole of such pecuniary penalty shall be paid to the Treasurer or Chamberlain of such Corporation, and form part of such funds as aforesaid: And provided also, secondly, that any member of the Municipal Corporation, under the By-law whereof any such prosecution as aforesaid shall be brought, being, *ex officio* or otherwise, a Justice of the Peace within such locality, may act as such with regard to such prosecution.

CLXXXVI. And be it enacted, That as well with regard to any such prosecution as to any suit, action or proceeding to which any Corporation created or to be created by or under this Act shall be a party, no member, officer or servant of such Corporation shall be deemed an incompetent witness, nor shall his testimony be objected to on the ground of his being interested in the matter, as such member, officer or servant of such Corporation, nor shall he be liable to challenge on such ground as a juror, if he have no more direct interest in the issue of such suit or prosecution, or be not otherwise rendered incompetent; any law, usage or custom to the contrary notwithstanding.

CLXXXVII. And be it enacted, That it shall not be competent to the Municipality of any Township or to the Municipal Council of any County, to pass any By-law for stopping up any original allowance for Roads in any Township or County, nor on the limits of any Village, Town or City therein.

CLXXXVIII. And be it enacted, That on the alteration of any Road under the authority of this Act where the Road thus altered shall not have been an original allowance for Road, or where the same shall lie within any Incorporated Village, Town or City or the liberties thereof, the site of such old Road shall and may be sold and conveyed by the Municipal Corporation under whose authority the alteration was made to the party or parties next adjoining to whose land or lands the same shall have run, or in case of his, her or their refusal to become the purchaser or purchasers thereof at such price or prices respectively as such Municipal Corporation shall think reasonable, then, to any other person or persons whomsoever; provided always, nevertheless, that it

it shall not be lawful for any such Municipal Corporation to sell and convey any such old Road or any part thereof to any other than the person or persons first mentioned at any given price until such first mentioned person or persons shall have refused to become the purchaser or purchasers thereof at such price : And in case the person or persons now in possession of any Concession Road or Side Line may have laid out Streets in any City, Town or Village without any compensation therefor, he shall be entitled to retain the land within such City, Town or Village originally set apart for such Concession Road or Side Line in lieu of the Street set apart by him in place of the said Concession Road or Side Line.

shall have the first offer.

As to parties having given land for Roads without compensation.

CLXXXIX. And be it enacted, That no Road to be hereafter laid out, under the authority of this Act shall be more than ninety feet nor less than forty feet in width ; provided always, that nothing in this section shall extend or be construed to extend to affect any Road now established under the provisions of any Act heretofore in force in Upper Canada, nor when any Road shall be altered under the authority of this Act to prevent such altered Road from being laid out, of the same width as the old one.

Roads not to exceed ninety nor be less than forty feet in breadth. Proviso as to Roads now established.

CXC. And be it enacted, That all powers, duties or liabilities vested in or belonging to the Magistrates in Quarter Sessions, with respect to any particular Highway, Road or Bridge in Upper Canada at the time this Act shall come into force, shall from thenceforth become and be vested in and belong to the Municipal Corporation of the County in which such Highway, Road or Bridge shall lie, or in case of such Highway, Road or Bridge lying within two or more Counties, shall be vested in and belong to the Municipal Corporations of both such Counties, subject always to the provisions of this Act as to the mode and manner of exercising, performing and meeting such powers, duties and liabilities, and all rules and regulations made and directions given by such Municipal Corporation or Corporations in the premises shall have the like force and effect to all intents and purposes whatsoever as those which such Magistrates had previously the power of making or giving respecting the same, and neglect of or disobedience to any such rules, regulations or directions so to be made or given by such Municipal Corporation or Corporations, shall subject the defaulter or defaulters in the premises to the like penalties, forfeitures and other consequences both civil and criminal as such neglect of or disobedience to similar rules, regulations or directions of such Magistrates would have subjected them to, previous to this Act coming into force.

Powers, &c., of Magistrates in Quarter Sessions with respect to Highways, &c., vested in Municipal Corporations.

As to rules and regulations made by them.

CXCI. And be it enacted, That it shall and may be lawful for any of the Municipal Corporations, created or to be created under the authority of this Act, to authorize by By-law any person or persons who may be willing to contract with them, for that purpose, to plank, gravel or macadamize any road or to build any bridge, which, under the provisions of this Act, any such Municipal Corporation would themselves have a legal right to plank, gravel, macadamize or build, and to grant to such person or persons in consideration or part consideration of the execution of such work the tolls to be levied on the same after it shall have been completed ; Provided always, firstly, that the rate of tolls to be taken upon such work shall in all cases be fixed by By-law of such Municipal Corporation, and not be in the discretion of such person or persons so contracting as aforesaid ; And provided also, secondly, that no such tolls shall be leviable until such Municipal Council shall by a subsequent By-law have declared that the work contracted for has been completed, and that the tolls may be collected thereon

Corporation may authorize persons to plank, &c. Roads, or build Bridges within their jurisdiction.

Proviso : Tolls to be fixed by Corporation.

Proviso : tolls not leviable until the work is completed.

accordingly ;

Proviso: tolls not to be granted for more than ten years.

Proviso: persons receiving tolls, to keep roads, &c., in repair.

Proviso as to companies formed under the general Act of this Session.

accordingly; And provided also, thirdly, that the grant of such tolls shall in no case be for a longer period than ten years from the time of the passing of such last mentioned By-law by which the levying of such tolls shall become lawful; And provided also, fourthly, that it shall be the duty of such person or persons during the period that his or their right to levy tolls under such By-law shall continue to keep and maintain such road or bridge in good and proper repair; And provided also, fifthly, that none of the powers and privileges conferred by an Act passed in this present Session of Parliament, intituled, *An Act to authorize the formation of Joint Stock Companies for the construction of Roads and other Works in Upper Canada*, shall extend to confer upon any Company formed or pretended to be formed under the authority of that Act, any power of interference with any authority conferred by any such By-law upon any person or persons under the authority of this section.

Corporation not to stop up Roads, &c., without one month's notice, &c.

Proviso: Corporations not to interfere with Roads, &c., vested in Her Majesty or in any public department.

Powers of Governor in Council as to such Roads.

CXCII. And be it enacted, That it shall not be lawful for any of such Municipal Corporations to make any By-law for the stopping up, altering, widening or diverting any public highway, road, street or lane until they shall have caused at least one calendar month's notice to have been given by written or printed notices put up in the six most public places in the immediate neighbourhood of such highway, road, street or lane, nor until they shall have heard in person or by counsel or attorney, any person through whose land such highway, road, street or lane, or proposed highway, road, street or lane shall run, and who may claim to be so heard before them: Provided always, nevertheless, that nothing either in this section or in any other of the provisions of this Act shall extend or be construed to extend to give any power or authority whatsoever to any of the Municipal Corporations erected or to be erected under the authority of the same, to interfere in any way with any of the public roads or bridges in Upper Canada, which by Act of Parliament or otherwise, now are or hereafter may be vested in Her Majesty, or in any public department or board of Her Majesty's Provincial Government as a Provincial public work; with respect to all and every which Provincial public works whether roads or bridges, all and singular the powers by this Act conferred upon or vested in such Municipal Corporations, with respect to other roads and bridges within the limits of their respective jurisdictions, shall be and the same are hereby vested in and shall and may from time to time and at all times hereafter be exercised by the Governor of this Province in Council with respect to such Provincial public roads and bridges and every of them, by such orders in Council as shall or may from time to time be made for that purpose.

Corporations not to interfere with the alignment, &c., of Roads laid out by the Ordinance, &c., except by consent.

CXCIII. And be it enacted, That nothing in this Act contained shall extend or be construed to extend to give any power or authority whatsoever to any of the Municipal Corporations erected or to be erected under the authority of the same, to pass any By-law for the direction or alignment, stopping up or altering of any of the streets, lanes or thoroughfares which have been or hereafter shall or may be made or laid out by the Department of Her Majesty's Ordnance, or to the interfering in any manner with any bridges, wharves, docks, quays or other works constructed by or under the direction of Her Majesty's Ordnance, or on the land held by Her Majesty and reserved for military purposes, until the consent in writing of the Head Quarter Board of Officers of Her Majesty's Ordnance acting in Canada, shall be first had and obtained authorizing such intended By-law to extend to Ordnance Property.

CXCIV. And be it enacted, That nothing in this Act contained shall extend or be construed to extend to give any power or authority whatsoever to any of the Municipal Corporations erected or to be erected under the authority of the same, to pass any By-law to open any street, road or lane through any lands held by Her Majesty or on Her behalf in respect of the Ordnance, or to interfere with, prejudice or weaken the right of Her Majesty in respect of such Ordnance property, or to interfere with the integrity of the public defences as connected with such property, unless the consent of the Head Quarter Board of Officers of Her Majesty's Ordnance acting in Canada shall be first had and obtained, such consent and all other consents required by this Act in regard to Ordnance property to be given in writing under the hands of the Head Quarter Board of Officers of Her Majesty's Ordnance acting in Canada, and that they are such Head Quarter Board of Officers shall be certified under the hand of the Commander of the Forces in Canada for the time being, and every such consent and certificate shall be recited in such By-law.

Corporations not to run Roads through Ordnance property or interfere with the defences of the Province, &c., except by consent.

CXCV. And be it enacted, That upon the passing of any By-law, by any Municipal Corporation erected or to be erected under the authority of this Act for the purpose of authorizing the opening any road, street or other public thoroughfare, or of changing, widening or diverting any road, street or public thoroughfare so as to cause the same or any part thereof to go through or be placed upon or injuriously to affect the land or other real property of any person or persons, it shall and may be lawful for the person or persons who shall own such property to name an arbitrator, and give notice thereof in writing to the Clerk of such Corporation, and the Head of the Corporation shall, within three days after such notice, name an arbitrator on behalf of such Corporation, and give notice thereof to the person or persons owning the said property and appointing such arbitrator as aforesaid, and the two arbitrators shall, within three days thereafter, appoint a third arbitrator, and the said three arbitrators, or the majority of them, shall have power to determine upon and award the amount of damages (if any) to be paid to such person or persons as aforesaid, and their award shall be binding on such person or persons, and on the said Corporation respectively, so as such award be made in writing within three calendar months after the appointment of the third arbitrator as aforesaid: Provided always nevertheless, firstly, that every such submission and award shall be subject to the jurisdiction of Her Majesty's Court of Queen's Bench for Upper Canada, in the same manner and to the same extent for all purposes whatsoever as if there had been a submission of the matters in difference by bond between the parties containing an agreement that such submission should be made a rule of that Court: And provided also, secondly, that if the Head of such Corporation shall neglect to appoint an arbitrator for the Corporation within such time as aforesaid, or the said two first mentioned arbitrators shall be unable to agree, or shall not agree upon and appoint a third as aforesaid, or the said three arbitrators, or the majority of them, shall be unable to agree, or shall not agree upon an award within the time aforesaid, then and in every such case, it shall and may be lawful for such person or persons, so interested as aforesaid, to institute a special action on the case at law against the Municipal Corporation by which such By-law shall have been passed, and such action shall be sustainable, whether any entry shall be made under such By-law or not, or whether any use shall be made of such property under such By-law or not, and if no such entry or use other than for the purposes of survey shall be proved at the trial of any such action, then the Judge who shall try the same shall certify the want of such proof upon the record, and in such case it shall and may be lawful for such Municipal Corporation, at any

In case it shall be necessary for Roads to pass over, &c., private property, arbitrators to be appointed.

Arbitrators to fix the compensation if any.

Proviso: Awards subject to Court of Q. B.

Proviso: in case of neglect of Head of Corporation to appoint arbitrator, &c., party interested may sue Corporation, &c.

Action sustainable without proving entry.

By-law may then be repealed, and costs tendered, &c.

No entry allowed until damages and costs be paid.

If a lawful and sufficient tender be proven by defendant, all costs subsequent thereto to be borne by plaintiff.

In estimating damages, juries to take into consideration benefit to be derived by plaintiff from widening of Road, &c.

All By-laws to be authenticated by seal of Corporation, signature, &c.

Effect of certified copies.

Bonds, &c. how to be signed and sealed, &c.

any time after such trial, and until four calendar months after the rendering judgment upon such verdict, to repeal such By-law, and to tender and pay to the Plaintiff in such action, or to the Plaintiff's Attorney, the taxed costs of the said Plaintiff in such action, and from and after such tender or payment, the Municipal Corporation against whom such action shall be brought shall be discharged from the damages which shall be assessed in such action, and the land or other real property which shall be proposed to be taken by any such first mentioned By-law, shall be and remain as if no such By-law had been passed; and no entry or other use of such land or real property, for the purposes of such first mentioned By-law, shall be lawful after the assessment of such damages by the Jury, until the amount of the damages assessed, and the costs of the Plaintiff in such action, shall have been levied by the Sheriff, or paid, or discharged, or lawfully tendered to the Plaintiff or the Attorney for the Plaintiff in such action.

CXCVI. And be it enacted, That if a tender shall be pleaded, and if upon the trial of any such action it shall be proven to the satisfaction of the Jury that a lawful tender shall have been made to the Plaintiff or to the Plaintiff's Attorney of a compensation or sum equal to or greater than the amount of the damages assessed by such jury, the said jury shall find such tender by their verdict, and in case of such finding, the costs of the defendant in such action, incurred after such tender, shall be borne by the plaintiff, and the plaintiff in such case shall receive no costs, for any proceedings subsequent to such tender.

CXCVII. And be it enacted, That as well the arbitrators as the jury, in estimating the damages or compensation in any such submissions or actions, shall take into consideration any benefit or advantage which the plaintiff shall or may derive from the opening, widening or diverting any such road, street, or other public thoroughfare, and deduct the same from the damages or compensation; and in case the said benefit to be derived from the said opening, widening, or diverting such road, street, or public thoroughfare, shall be greater than the damages which shall be found to arise from the taking of such land or other real property, the award or verdict shall be for the defendant.

CXCVIII. And be it enacted, That all By-laws made and passed by any Municipal Corporation under the authority of this Act, shall be authenticated by the Seal of the Corporation, and by the signature of the Head thereof, or of the person presiding at the meeting at which the same shall have been made and passed, and also by that of the Clerk of such Corporation; and any copy of any such By-law, written without erasure or interlineation, sealed with the Seal of the Corporation, and certified to be a true copy by the Clerk, and by any member of such Corporation for the time being, shall be deemed authentic, and shall be received in evidence in any Court of law or equity in this Province, without its being necessary to prove such seal or signatures, unless it shall be specially pleaded or alleged that the same, or any of them are forged or counterfeit; and all debts, bonds, obligations and other instruments to be executed on behalf of any Corporation erected or to be erected by or under this Act, shall be valid if sealed with the Seal of the Corporation, and signed by the Head of such Corporation, or by such other person as shall by any By-law to be passed in that behalf, be authorized to sign the same on the behalf of the Corporation.

CXCIX. And be it enacted, That the originals or certified copies of all By-laws and regulations made by any Municipal Corporation under the authority of this Act, and of all minutes of the proceedings of any such Corporation shall be kept in the office of their Clerk, and shall be open at all seasonable times and hours to the inspection of the public; and the said Clerk shall be bound to furnish copies thereof at the rate of six pence currency per hundred words, or at such lower rate as the Corporation shall appoint; and all meetings and proceedings of any such Corporation shall be held openly, and so that no person shall be prevented from being present thereat, except only when the public interest shall require the contrary.

Original By-laws to be kept in Clerk's Office and open to the Public, &c.
As to Copies.

Meetings, &c., to be public.

CC. And be it enacted, That so long as any City or Town erected or to be erected under the authority of this Act, shall use or continue to use the Court House, Gaol, and House of Correction of any County within the limits or on the borders whereof such City or Town shall be situate, or any of them, the Municipal Corporation of such City or Town shall pay to the Municipal Corporation of such County, such annual sum of money for the same as shall be mutually agreed upon between them as a fair compensation for the use of such buildings or any of them, and in the event of such Corporations being unable to agree as to the amount of such compensation, then the same shall be settled by the award of three arbitrators, or the majority of them, to be appointed as follows, that is to say: one by the Municipal Corporation of such City or Town, another by the Municipal Corporation of such County, and the third by such two arbitrators thus appointed, or in the event of such two arbitrators omitting to appoint such third arbitrator within ten days next after their own appointment, then by the Governor of this Province in Council, and the amount so settled shall be deemed a debt due by the Municipal Corporation of such City or Town to the Municipal Corporation of such County, and its payment shall be provided for as is hereby directed with respect to other debts of such Municipal Corporations in general, and in default thereof may be sued for and recovered as any such debts: Provided always nevertheless, firstly, that in case either of such Corporations shall omit for one calendar month after they shall have been called upon for that purpose by the other of such Corporations, to appoint an arbitrator on their part as above provided, it shall and may be lawful for the Governor in Council to appoint an arbitrator on the part and behalf of such Corporation so neglecting to appoint such arbitrator, who shall in such case have all the same powers as if he had been appointed by such Corporation: And provided also, secondly, that whenever, after the lapse of five years from the making any such award, it shall appear reasonable to the Governor in Council, upon the application of either of such Municipal Corporations, that the amount of such compensation should be reconsidered, it shall and may be lawful for him, by an order in Council, to direct that the then existing arrangement respecting the same, whether it be by agreement of the parties or by award, shall cease after some time to be named in such order, after which the said Corporations shall proceed as at first, for the settlement either by agreement or arbitration, of the amount to be paid from the termination of such previous settlement: Provided also, thirdly, that every such submission and award shall be subject to the jurisdiction of Her Majesty's Court of Queen's Bench for Upper Canada, in like manner as if the same were by bond, with an agreement therein that such submission might be made a rule of that Court: And provided always, fourthly, that whenever at the time this Act shall come into force there shall be any subsisting agreement or other settlement, whether by Act of Parliament or otherwise, of the amount to be paid by any such City or Town for such Court House, Gaol or House of Correction,

Corporations of Cities using gaols, &c., of Counties within the limits whereof they are situate, to pay to the Corporations of such Counties for the use of the said Gaols, &c. a fair compensation—to be settled by arbitrators in case of disagreement.

Proviso: Governor to appoint arbitrators in default of Corporations.

Proviso: after five years, Governor may order a new agreement.

Awards subject to Court of Q. B.

Proviso. existing agreements to remain in force as if settled under this Act.

Correction, or any of them, the same shall be and continue in force as if it had been settled under the authority of this clause at the time that this Act shall have so come into force as aforesaid.

Villages, Towns, &c., in the different Schedules and the Wards therein, to have the several boundaries therein set forth.

CCI. And be it enacted, That the several Villages mentioned and named in the Schedule to this Act annexed marked A, shall respectively have such boundaries as shall or may be established and declared for such Villages respectively, in and by any Proclamation or Proclamations, to be in that behalf issued under the Great Seal of this Province, by order of the Governor thereof in Council, at any time on or before the first day of October next, after the passing of this Act, and shall by such boundaries be Incorporated Villages under this Act, and the several Towns mentioned and named in the Schedule to this Act annexed marked B, shall respectively have the boundaries set forth in the said Schedule, and shall be Towns under the provisions of this Act, and the Wards of such Towns shall respectively have the names and boundaries set forth in such Schedule in respect of such Towns: and that the several Cities mentioned and named in the Schedule to this Act annexed marked C, shall respectively have the boundaries both as respects such Cities and the liberties thereof set forth in the said last mentioned Schedule, and shall be Cities under the provisions of this Act, and the several Wards of such Cities shall, with the liberties attached to each respectively, have the names and boundaries set forth in the said last mentioned Schedule in respect of such Cities, and all and singular the names and boundaries of all such Villages, Towns and Cities and of the Wards of such Towns and Cities shall continue until the same shall be altered by competent authority in the manner in this Act set forth and provided.

Recital.

CCII. And whereas the places mentioned in the Schedule to this Act annexed marked D, and intituled, "Towns with Municipalities only or without any Municipal organization," from having been the places where the assizes have been usually held or, from being the seats of the local Courts, or from having been named as Towns in Acts of Parliament, or from other causes, are or are generally reputed to be Towns, and it is inexpedient to deprive them of that distinction or to subject them to the more extensive organization in and by this Act provided for, either Towns or Villages in general until by the increase of their inhabitants they shall respectively become desirous of and entitled to such extended organization respectively as they would be under this Act, were the only Villages or Hamlets respectively: Be it therefore enacted, That the several Towns mentioned in the said Schedule, with such limits and boundaries as shall be established and declared for such Towns respectively, in and by any Proclamation or Proclamations to be in that behalf issued under the Great Seal of this Province by order of the Governor thereof in Council at any time on or before the first day of October next after the passing of this Act, shall be and continue to be Towns as heretofore, but neither the provisions of this Act applicable to Towns only, nor any Act, nor any of the provisions of any Act to be passed this Session, or at any time hereafter referring to Towns generally, shall thereby extend or be construed to extend to any of such Towns; Provided always, nevertheless, that it shall and may be lawful for the Governor of this Province in Council at any time by Proclamation under the Great Seal thereof, to extend the limits of any of the Towns mentioned in the said Schedule D, to divide such Town into Wards, and to extend to such Town all the provisions of this Act and of all other Acts applicable to Towns in general, whereupon the provisions of this Act and of all such other Acts shall extend to such Town as if such

How this Act shall apply to certain Towns in Schedule D.

All the provisions of this Act may be extended by Proclamation to such Towns.

such Town with its limits and divisions had been set forth in the Schedule to this Act annexed marked B.

CCIII. And be it enacted, That the inhabitants of each of the Towns mentioned in the first division of the said Schedule marked D, shall be a Body Corporate apart from the Township or Townships in which such Town shall be situate, and as such shall have perpetual succession and a Common Seal, with all such powers within the limits of such Town as are by this Act conferred upon the inhabitants of Incorporated Villages, and the powers of the Corporation of such Town shall be exercised by, through, and in the name of the Municipality of such Town, and all the provisions of this Act, and of all other Acts hereafter to be passed applicable to Incorporated Villages, and the Municipalities thereof, shall apply to such Town and the Municipality thereof.

As to Towns mentioned in first division of Schedule D. incorporated.

CCIV. And be it enacted, That each of the Towns mentioned in the second division of the said Schedule marked D, shall be and continue a part of the Township or Townships within which the same shall be respectively situate, and shall be and continue subject to the jurisdiction of the Municipality or Municipalities of such Township or Townships as if the same was an unincorporated Village or Hamlet, and that when by the census returns, it shall appear that any of such last mentioned Towns and any portion of a Township or Townships, which from the proximity of streets and buildings, may conveniently be attached to such Town, shall together contain one thousand inhabitants or upwards, it shall and may be lawful for any number of the resident freeholders or householders of such Town, not less than one hundred, to petition the Governor of this Province that the inhabitants of such Town may be incorporated, and upon such petition it shall be lawful for the Governor of the Province by an order in Council to issue a Proclamation under the Great Seal of the Province, setting forth the boundaries of such Town, and including within such boundaries any such portion or portions of the said adjacent Township or Townships as from the proximity of streets or buildings as aforesaid may conveniently be attached to such Town as aforesaid, and the inhabitants of such Town as embraced within such new and extended boundaries, shall, on from and after the first day of January next after the end of three calendar months, from the *teste* of such Proclamation, be incorporated apart from the Township or Townships in which it is situate, and shall no longer be subject to the jurisdiction of the Municipality or Municipalities of such Township or Townships, and as such Corporation, shall have perpetual succession and a Common Seal, with all such powers within the limits of such Town as are by this Act conferred upon the inhabitants of any Incorporated Village, and the powers of the Corporation of such Town shall be exercised by, through and in the name of the Municipality of such Town; and all the provisions of this Act and of all other Acts hereafter to be passed applicable to Incorporated Villages in general, and the Municipalities thereof, shall apply to such Town and the Municipality thereof as if the same were mentioned in the Schedule to this Act annexed marked A.

Provision with respect to the incorporation of towns mentioned in second division of Schedule D. on certain conditions.

Petition.

Proclamation.

When such Proclamation shall take effect, and what its effect shall be.

CCV. And be it enacted, That whenever by the census returns it shall appear that any of the Towns mentioned in the said Schedule marked D, which shall have been then already incorporated under the provisions of this Act as aforesaid, and any portions of the Township or Townships which, from the proximity of streets and buildings, may conveniently be attached to such Town, shall together contain five thousand inhabitants or upwards, it shall and may be lawful for the Municipal Corporation of such Town to petition the Governor of this Province that the limits of the

Provision with respect to the division into Wards of certain Towns in Schedule D. on certain conditions.

Petition.

the

Proclamation.

the said Town may be extended, and that the same may be divided into Wards, and upon such petition it shall be lawful for the Governor of the Province, by an order in Council, to issue a Proclamation under the Great Seal of the Province, extending such limits and dividing such Town into Wards accordingly, and from and after the first day of January next, after the end of three calendar months from the *teste* of such Proclamation, all the provisions of this Act and of all other Acts hereafter to be passed applicable to Incorporated Towns in general or to the Town Councils thereof, shall apply to such Town and Town Council thereof, as if the same were mentioned in the Schedule to this Act annexed marked B.

Corporations &c., of Districts, &c., existing immediately previous to 1st January, 1850, to remain until 4th Monday of that month.

Powers of Members, &c., to continue.

CCVI. And be it enacted, That for and notwithstanding any thing in this Act contained, the Municipal Corporation or other Municipal bodies or authorities of the several Counties, Unions of Counties under the name of Districts, Cities, Towns, Townships and Villages in Upper Canada, existing immediately previous to the first day of January, which will be in the year of our Lord one thousand eight hundred and fifty, and all and singular the members, officers, and servants of the same respectively, shall, upon and from the said first day of January, in the year aforesaid, until the fourth Monday of the same month, continue to have, exercise and perform all and singular the Municipal and other powers, functions and duties which immediately previous to such first day of January shall or may by law have been vested in them respectively, to all intents and purposes, as if this Act had not been passed.

Proclamations incorporating Villages, &c., when to take effect.

CCVII. And be it enacted, That any Proclamation to be issued under the authority of this Act, for the incorporation of any Village, for erecting any Village into a Town, or for erecting any Town into a City, shall have force and effect upon, from and after the first day of January next, after the end of three calendar months from the *teste* of such Proclamation, and not before, except only as regards any thing to be done preparatory to the election to be held in consequence of such Proclamation, with regard to which such Proclamation shall have force and effect from the time of the *teste* thereof.

Provisions of this Act as to property qualification when to take effect.

CCVIII. And be it enacted, That no provision in the foregoing enactments of this Act which requires that any person be possessed of any property qualification, or be assessed for any particular amount in order to his having a right to vote or to be elected at any election to be held under the authority of this Act, shall have any force or effect, unless or until some Act be passed by the Parliament of this Province in the present or some future session thereof to provide for the regulation of assessments, and the levying and collecting of local taxes in Upper Canada, and to repeal the general provisions of the Acts heretofore in force for that purpose, but all such persons as have heretofore had the right to vote or be elected at the annual elections of Parish and Township Officers, for the several Townships in Upper Canada, shall have the right of voting and being elected for the Township and Village Councillors to be elected under this Act, and such persons as have heretofore had a right to vote or be elected at the Municipal Elections of any City, Town or Village heretofore incorporated, or having a Board of Police established by law for the same, shall have the right of voting and being elected for the City, Town or Village, Aldermen and Councillors to be elected under this Act for such City, Town or Village respectively; and the persons entitled to vote or be elected at the Municipal Elections of every Town and Village not incorporated as aforesaid before the passing of this Act,

Who may vote or be elected in the mean time. In incorporated Towns, &c.

In unincorporated Towns, &c.

Act, shall be the resident male inhabitants, being either householders or freeholders of such Town or Village of the age of twenty-one years or upwards, being subjects of Her Majesty by birth or naturalization, and who shall have resided in such Town or Village for six calendar months next previous to the holding of the said election, and who shall have been rated on the Assessment Roll of the said Town or Village as householders or freeholders for the year previous to such election. Provided also, that where the system of the registration of votes exists at the passing of this Act in any City or Town, the same shall continue under the Act or Acts providing such registration, until altered by any Act as aforesaid; and provided also, that whether any such new Act for regulating assessments in Upper Canada, shall or shall not be passed prior to this Act coming into force, the persons hereinbefore described as entitled to elect and be elected under this Act (until such new assessment law shall have passed as aforesaid,) shall be those entitled to elect and be elected respectively at the first elections to be held under this Act.

Proviso as to places where a Registration of voters exists.

Proviso as to first elections.

CCIX. And be it enacted, That all Acts and parts of Acts and provisions of law, either of the Parliament of this Province, or of the Parliament of the late Province of Upper Canada, and all Acts, By-laws, Rules and Regulations thereupon passed by any Township Meeting, District Council, Board of Police, Town or City Council in Upper Canada, in force in Upper Canada immediately before the time when this Act shall come into force, in so far as the same may be inconsistent with or contradictory to the provisions of this Act, or which make any provisions in any matter provided for by this Act, other than such as is hereby made in such matter, shall be and they are hereby repealed, and shall cease to be in force upon, from and after the day when this Act shall come into effect.

Acts, &c., inconsistent with this Act, repealed.

CCX. And be it enacted, That the word "Governor" wherever it occurs in this Act, shall be understood to mean and include the Governor, Lieutenant-Governor, or Person Administering the Government of this Province for the time being; the words "Upper Canada," shall be understood to mean and include all that part of this Province which formerly constituted the Province of Upper Canada; and words importing the singular number or the masculine gender only, shall be understood to include more than one person, matter or thing of the same kind, as well as one person, matter or thing, and females as well as males, unless it be otherwise expressly provided, or there be something in the subject or context repugnant to or inconsistent with such construction; and all other words, terms or phrases shall receive such fair and liberal construction as shall be best adapted to carry out this Act according to its true intent, meaning and spirit.

Interpretation of word "Governor," &c.

How this Act shall be construed.

CCXI. And be it enacted, That this Act may be amended, altered or repealed by any Act to be passed in this present session of parliament.

Act may be amended, &c., in this Session.

SCHEDULE A.

VILLAGES.

- | | |
|--------------|---|
| 1. Chippawa. | 4. Paris. |
| 2. Galt. | 5. Richmond, (in the County of Carleton.) |
| 3. Oshawa. | 6. Thorold. |

SCHEDULE

SCHEDULE B.

1. *Belleville*.—To consist of all that part of this Province situate within the County of Hastings and lying within the following limits, that is to say :

Commencing at the limits between Lots numbers six and seven in the first concession of the Township of Thurlow, at low water mark of the Bay of Quinte ; thence, northerly along the side line between lots numbers six and seven to the second concession road ; thence, westerly, along the said second concession line to the westerly boundary of lot number one in the said first concession of Thurlow ; thence, southerly, on the town line between Townships of Thurlow and Sidney to the Bay of Quinte ; thence, easterly, along the shore of the said Bay to the place of beginning ; together with the Harbor, Islands and Marshes in front of the said Town.

The said Town to be divided into four Wards to be called respectively Samson Ward, Ketcheson Ward, Baldwin Ward, and Coleman Ward, and to comprise the following portions of the said Town respectively, that is to say :

The said Samson Ward to comprise all that part of the said Town which lies to the south-east of Bridge Street, on the north side of the river Moira.

The said Ketcheson Ward to comprise all that part of the said Town which lies north-west of bridge, and south-east of Pinnacle Street on the north side of the said river.

The said Baldwin Ward to comprise all that part of the said Town which lies north-west of Pinnacle Street, on the north side of the said river, to the limit of the said Town.

And the said Coleman Ward to comprise all that part of the said Town which lies on the west side of the said river Moira.

2. *Brantford*.—To consist of all that part of this Province situate within the county of Wentworth and lying within the following limits, that is to say :

Commencing on the north side of Colborne Street, in the eastern limit of the said town as originally laid out by the authority of the government of the late Province of Upper Canada ; then, north, eighteen degrees thirty minutes east, seventy-nine chains forty-five links, more or less, to the north-east angle of the said town as laid out by the government as aforesaid ; then, south, eighty-four degrees thirty minutes west, eighty-two chains twenty-eight links, more or less, to the north-west angle of the said Town as laid out by the government as aforesaid, and to the eastern limit of a certain tract of twelve hundred acres of land originally granted by the Crown to Abraham Kennedy Smith and Margaret Kerby ; then, south, twenty-seven degrees thirty minutes west, eight chains, more or less, to the south-east angle of a parcel of land belonging to Peter O'Banyon ; then, north, sixty-two degrees thirty minutes west, sixty chains, more or less, to the western limit of the said lands granted by the Crown to the said Abraham Kennedy Smith and Margaret Kerby ; then, south, twenty-seven degrees

degrees thirty minutes west, one hundred and eight chains, more or less, along the western limit of the said lands to the Grand River; then, across the Grand River obliquely with the stream in an easterly direction, and passing south of the large Island, about thirty chains, to the limit between the farm lands of Thomas Mair and the north part of the Brant Farm, granted by the Crown to William Johnson Kerr; then, south, twenty-seven degrees twenty-five minutes west, forty-two chains, more or less, to the rear of the lots on the south side of Burford Street on the plank road; then, south, sixty-eight degrees east thirty-nine chains, more or less, to the east side of the Mount Pleasant road and south side of Walnut Street on the lands of Daniel Mercer Gilkison; then, north, forty-three degrees thirty minutes east, thirty-six chains, more or less, along the south side of Walnut Street to the Grand River; then, easterly, along the south side of the Grand River, with the stream about thirty chains to opposite the mouth of the Cove; then, east, across the Grand River to the south side of the mouth of the said Cove; then, north-easterly along the easterly side of the said Cove about twenty chains to the southern limit of the lands of the Grand River Navigation Company; then, easterly, along the south boundary of the said Grand River Navigation Company's Lands, about fifty-five chains, to the western limit of the Mohawk Parsonage Glebe; then, north, five degrees thirty minutes west, forty-five chains, more or less, to the place of beginning.

The said Town to be divided into five Wards to be called respectively, King's Ward, Queen's Ward, Brant Ward, East Ward and North Ward—and to comprise the following portions of the said Town respectively, that is to say:

The said King's Ward to comprise all that part of the said Town which lies between Cedar Street and King Street, and north of the Canal, together with all that part of the said Town lying south of the Grand River.

The said Queen's Ward to comprise all that part of the said Town which lies north of the Canal, and between King Street and Market Street to their intersection with West Street.

The said Brant Ward to comprise all that part of the said Town which lies north of the Grand River, and south of the Canal as far eastward as Alfred Street, and north of the Canal, and between Market and Alfred Streets.

The said East Ward to comprise all that part of the said Town which lies east of Alfred Street.

And the said North Ward to comprise all that part of the said Town which lies north of the Grand River (including the two large Islands in the River,) and west of Cedar Street, and West Street from its intersection with Cedar Street.

3. *Brockville*.—To consist of all that part of this Province situate within the County of Leeds, and lying within the following limits, that is to say:

Comprising that part of the Township of Elizabethtown known as the front halves of Township lots numbers ten, eleven, twelve and thirteen, and of the west half of Township lot number nine, and of the east half of Township lot number fourteen in the
first

first concession of the said Township, extending the same respectively to the water's edge of the River Saint Lawrence together with such parts of the water of the said River, and of the land under the said water as lies in front of the said lots within three hundred yards of the said water's edge, and also including the small Island in front of the said Town on which a block house is now built, and all Public Roads and Highways running through or by any of the said half lots within the exterior limits thereof.

The said Town to be divided into three Wards to be called respectively, East Ward, West Ward and Centre Ward, and to comprise the following portions of the said Town respectively, that is to say:

The said Centre Ward to comprise all that part of the said Town known as the front half of the west half of the said Township lot number eleven, and of the front half of the east half of the said Township lot number twelve, in the first concession of Elizabethtown aforesaid, extending the same respectively to the water's edge of the said River Saint Lawrence, together with such parts of the water of the said River and of the land under the said water as lies in front of the said last mentioned half lots and within three hundred yards of the said water's edge, and including the said small Island.

The said West Ward to comprise all that part of the said Town which lies to the west of the said Centre Ward.

And the said East Ward to comprise all that part of the said Town which lies east of the said Centre Ward.

4. *Bytown.*—To consist of all that part of this Province situate within the County of Carleton, and lying within the following limits, that is to say:

Commencing at the waters of the river Rideau on the line which divides lots E and F in concessions D and C, and thence, in a continuous direct line, across lot number forty, to the side-line dividing lots numbers thirty-nine and forty; thence, following the said line northerly in the first concession to the line dividing concession A and the first concession, and in concession A embracing the whole of the broken lot number thirty-nine to the river Ottawa, including all the islands down to the southerly end of the chain bridge; thence, following the waters of the Ottawa in the centre of the channel to the western branch of the waters of the river Rideau; thence, against the stream up the river Rideau to the place of beginning.

The said Town to be divided into three Wards to be called respectively East Ward, Centre Ward and West Ward, and to comprise the following portions of the said Town respectively, that is to say:

Lower Bytown shall comprise that portion of the said Town which lies easterly from the Rideau Canal, and shall constitute two Wards by the names of East Ward and Centre Ward.

The said East Ward to comprise all that portion of the said Lower Town which lies east of the centre of Dalhousie Street, so far as the said street is now opened, and thence in a direct line produced from the centre of the said street until it intersects the limits of the Town on the south.

The said Centre Ward to comprise all that portion of the said Lower Town not included in the East Ward.

The said West Ward shall comprise all that portion of the said Town which lies westerly from the Rideau Canal, and which shall constitute Upper Bytown.

5. *Cobourg*.—To consist of all that part of this Province situate within the County of Northumberland, and lying within the following limits, that is to say :

Commencing on the Lake shore, at the south-east angle of lot number fourteen, in concession B ; thence, north, sixteen degrees west, to the centre of the first concession ; thence, south, seventy-four degrees west, to the centre of lot number twenty-one, in the said concession ; thence, south, sixteen degrees east, to the Lake shore ; thence, along the water's edge, to the place of beginning.

The said Town to be divided into three Wards, to be called respectively, South Ward, East Ward and West Ward.

The said South Ward to comprise all that portion of the said Town which lies south of King street.

The said East Ward to comprise all that portion of the said Town which lies east of the centre of the street between lots numbers sixteen and seventeen and north of King street ; and

The said West Ward to comprise all that portion of the said Town which lies west of the centre of the street between lots numbers sixteen and seventeen, and north of King street.

6. *Cornwall*.—To consist of all that part of this Province situate within the County of Stormont, and lying within the following limits, that is to say :

Comprised within the limits or boundaries heretofore reserved and set apart by Government as a Town plot, together with the parcel or tract of ungranted land in front thereof, and the harbour.

The said Town to be divided into three Wards, to be called respectively East Ward, West Ward, and Centre Ward, and to comprise the following portions of the said Town respectively, that is to say :

The said East Ward to comprise all that part of the said Town which lies between Amelia Street and the Eastern limits of the said Town.

The said West Ward to comprise all that part of the said Town which lies between Augustus Street and the Western boundary of the said Town ; and

The said Centre Ward to comprise all that remaining part of the said Town which lies between Amelia Street and Augustus Street, and not included in either of the before mentioned Wards.

7. *Dundas*.—To consist of all that part of this Province situate within the County of Halton, and lying within the following limits, that is to say :

Commencing on the division line between the property of George Rolph, Esquire, and the property of the late Harker Lyons, on the York road ; thence, following the said road, westerly, to the road leading up the mountain to John Keagy's, the younger ; thence, in a straight line by compass to a monument within a few feet of the site of the old oat-meal mill ; thence across the creek or stream to a stone monument placed at the distance of five hundred feet from the west bank thereof ; thence, following the said creek or stream at a distance throughout of five hundred feet from the west and south bank thereof, to where a stone monument is placed south of Mr. Ewart's mill-dam ; thence, running in a straight line to a stone monument placed on the boundary line between the property owned by John O. Hatt, Esquire, and the estate of the late Manuel Overfield ; thence, to a stone monument placed on the boundary line between the property owned by Thomas Hatt and the said John O. Hatt ; thence, along the said boundary line to a stone monument placed in South Street ; thence, following South Street till it intersects East Street ; thence, descending the hill in a northerly direction till it intersects the Governor's road ; thence, following the said road, easterly, to a stone monument placed in a line at right angles with the place of beginning ; thence, along the said line to the place of beginning.

The said Town to be divided into four Wards, to be called, respectively, Mountain Ward, Canal Ward, Foundry Ward, and Valley Ward, and to comprise the following portions of the said Town respectively, that is to say :

The said Mountain Ward to comprise all that part of the said Town commencing on the Sydenham road at the northern boundary of the said Town ; thence, running along the said Sydenham road until it intersects King Street ; thence, along the said King Street in an easterly direction until it intersects Main Street ; thence, along the said Main Street until it intersects Baldwin or Flamboro' Street ; thence, along the same to the Basin of the Desjardins Canal ; thence, along the said canal until the eastern boundary or limit of the said Town is intersected ; thence, following the said eastern boundary to the northern boundary line of the said Town ; thence, following the same to the place of beginning.

The said Canal Ward to comprise all that part of the said Town, commencing on King Street at a post planted between the lands owned by Orlando Morley and John Walker ; thence, running south to the southern boundary of the said Town ; thence, along the said boundary to the eastern boundary until the Desjardins Canal is intersected ; thence, along the said Canal in a westerly direction until East Street is intersected (Coote's Paradise) ; thence, along Baldwin or Flamboro' Street to Main Street ; thence, along the said Main Street in a northerly direction till it intersects King Street ; thence, along the said King Street to the place of beginning.

The said Foundry Ward to comprise all that part of the said Town, commencing on King Street at a post planted between the lands owned by Orlando Morley and John Walker ; thence, along the said King Street, west, until it intersects Peel Street ; thence, south, until James Street is intersected ; thence, westerly, along the said James Street until it intersects the western boundary of the said town ; thence, along the western and
southern

southern boundary of the said Town until the boundary between Wards Numbers Two and Three is intersected; thence, northerly, to the place of beginning; and

The said Valley Ward to comprise all that part of the said Town, commencing at the northern boundary of the said Town on the Sydenham Road; thence, following the north-western limits of the said town to a stone monument within a few feet of the site of the old oatmeal mill; thence, across the stream or creek to a stone monument placed at the distance of five hundred feet from the west bank thereof; thence, along the western boundary of the said town to a stone monument placed on a line at right angles with James Street; thence, along James Street, easterly, until Peel Street is intersected; thence, along Peel Street to King Street; thence, along King Street to Sydenham Road; thence, along Sydenham Road to the place of beginning.

8. *Goderich*.—To consist of all that part of this Province situate within the County of Huron, and lying within the following limits, that is to say:

Commencing at a point where the south limit of Britannia Road produced intersects the water's edge of Lake Huron; thence, northerly along the said water's edge to the south Pier of the Harbour; thence, easterly, along the said Pier and south side of the River Maitland, to a point where the west limit of Wellington Street produced intersects the said south side of the River Maitland; thence, due south, along the said produced limit of Wellington Street to the crown of the Hill; thence, easterly along the crown of the said Hill, following the several windings thereof, to the east end of Gloucester Terrace; thence, southerly, along the eastern limit of the River Maitland, until it intersects the south easterly limit of Britannia Road; thence, south-easterly along the south-east limit of Britannia Road to an angle thereof; thence, due west, along the south limit of the said Britannia Road to the place of beginning.

The said Town to be divided into Four Wards, to be called respectively Saint George's Ward, Saint Patrick's Ward, Saint Andrew's Ward, and Saint David's Ward; and to comprise the following portions of the said Town respectively, that is to say:

The said Saint George's Ward to comprise all that part of the said Town which lies northward of the centre of West Street and westward of the centre of North Street.

The said Saint Patrick's Ward to comprise all that part of the said Town which lies northward of the centre of East Street and eastward of the centre of North Street.

The said Saint Andrew's Ward to comprise all that part of the said Town which lies southward of the centre of West Street and westward of the centre of South Street; and

The said Saint David's Ward to comprise all that part of the said Town which lies southward of the centre of East Street and eastward of the centre of South Street.

9. *London*.—To consist of all that part of this Province situate within the County of Middlesex, and lying within the following limits, that is to say:

All the lands comprised within the old and new surveys of the said Town, together with the lands adjoining thereto, lying between the said surveys and the River Thames, producing

producing the northern boundary line of the new survey, until it intersects the north branch of the River Thames, and producing the eastern boundary line of the same new survey, until it intersects the east branch of the River Thames.

The said Town to be divided into Four Wards, to be called respectively Saint George's Ward, Saint Patrick's Ward, Saint Andrew's Ward, and Saint David's Ward, and to comprise the following portions of the said Town respectively, that is to say :

The said Saint George's Ward to comprise all that part of the said Town which lies north of the Northern Line and continuation of Hitchcock and Duke Streets.

The said Saint Patrick's Ward to comprise all that part of the said Town which lies between King Street and Saint George's Ward aforesaid.

The said Saint Andrew's Ward to comprise all that part of the said Town which lies between Horton Street and Saint Patrick's Ward aforesaid ; and

The said Saint David's Ward to comprise all that part of the said Town which lies south of Horton Street.

10. *Niagara*.—To consist of all that part of this Province situate within the County of Lincoln, and lying within the following limits, that is to say :

Commencing at Missisagua Point ; thence, westerly, along Lake Ontario to Crookston ; thence, along the rear or Town line of Niagara to the Black Swamp road ; thence, along the eastern limit of the lands of the late Thomas Butler, Esquire, deceased, and the lands of Garret Slingerland, to the north-west angle of the lands of John Eccleston ; thence, easterly, to where the lands formerly owned by the Honorable William Dickson and the late Martin McLennon, deceased, come in contact ; thence, easterly, along the northern boundary of the lands of the said Martin McLennon, deceased, to the River Niagara ; thence, northerly, down the said Niagara River to the place of beginning.

The said Town to be divided into five Wards, to be called respectively, Saint Lawrence Ward, Saint George's Ward, Saint Patrick's Ward, Saint David's Ward and Saint Andrew's Ward, and to comprise the following portions of the said Town respectively, that is to say :

The said Saint Lawrence Ward to comprise all that part of the said Town which lies south of the centre of the Street called King Street, which runs directly from the River Niagara, and commencing at the house now occupied by Mr. Walter Elliot, or the Lower Ferry, and terminating at the western limit of the Town.

The said Saint George's Ward to comprise all that part of the said Town which lies north of the centre of the Street forming the northern boundary of Saint Lawrence Ward, and south of the centre of the next parallel Street.

The said Saint David's Ward to comprise all that part of the said Town which lies north of the Street forming the northern boundary of Saint George's Ward, and south of the centre of the next parallel Street.

The said Saint Patrick's Ward to comprise all that part of the said Town which lies north of the Street forming the northern boundary of Saint David's Ward, and south of the centre of the next parallel Street.

And the said Saint Andrew's Ward to comprise all that part of the said Town which lies north of the Street forming the northern boundary of Saint Patrick's Ward.

11. *Peterborough*.—To consist of all that part of this Province situate within the County of Peterborough, and lying within the following limits, that is to say :

Comprising all the lands in the Government Surveys of the present Town of Peterborough, and lying north of Townsend Street, and east of Park Street to the centre of the River Otonabee, as the eastern limit of the said Town, and to the centre of the allowance for road forming the boundary line between the Townships of Monahan and Smith, as the northern boundary of the said Town—

And divided into four Wards, to be called East Ward, North Ward, Centre Ward, and South Ward, and to comprise the following portion of the said Town respectively, that is to say :

The said East Ward to comprise all that part the said Town which lies east of George Street.

The said North Ward to comprise all that part of the said Town which lies west of George Street and North of Brock Street.

The said Centre Ward to comprise all that part of the said Town which lies west of George Street, south of Brock Street and north of Simcoe Street.

And the said South Ward to comprise all that part of the said Town which lies west of George Street and south of Simcoe Street, including the Government Reserve south of the said Town.

12. *Pictou*.—To consist of all that part of this Province situate within the County of Prince Edward, and lying within the following limits, that is to say :

Commencing on the south side line of Lot letter A, at a distance of fifty chains from the front of the Lot; thence, across the said Lot, and across Lot number one, north, sixty-four degrees forty-five minutes east, to a post planted on the limit between Lots numbers one and two in the first Concession, north of the Carrying Place; thence, at a right angle across Lots numbers two, three and four in the said Concession; thence, along the north-east side of Lot number four to the Bay; thence, directly across the Bay to the line between Lots numbers seventeen and eighteen in the first Concession east of the Carrying Place; thence, along the waters' edge to the limit between Lots numbers nineteen and twenty in the said Concession; thence, along the limit between the said Lots in a south-easterly direction, twelve chains; thence, at right angles across the easterly half of Lot number twenty; thence, in a south-easterly direction along the centre of the said Lot number twenty, nine chains, more or less, to the east side of John Street, thirty chains; thence, north, eighty degrees twenty minutes west, fourteen chains forty links,
more

more or less, to the east side of Church Street; thence, south, twelve degrees forty-five minutes east, one chain sixty-five links; thence, south, forty-nine degrees fifteen minutes west, fifteen chains fifty links; thence, south, thirty-two degrees west to the north-eastern limit of Lot number one in the Concession south-east of the Carrying Place; thence, north, eighty-degrees twenty minutes west, along the north-east side line of the said Lot number one to the front of the Lot; thence, north, eighty-seven degrees forty-five minutes west, sixty chains, more or less, to a post on the limit between Lots numbers twenty-one and twenty-two in the third Concession, military tract; thence, along the westerly side line of the said Lot number twenty-two, twenty-four chains seventy-four links, more or less, to Lot letter A aforesaid; thence, in a direct line to the place of beginning, including the Harbor in the abovementioned boundaries.

The said Town to be divided into three Wards, to be called, respectively, Hallowell Ward, Brock Ward and Tecumseth Ward, and to comprise the following portions of the said Town, respectively, that is to say:

The said Hallowell Ward to comprise all that part of the said Town which lies west of Bowery Street.

The said Brock Ward to comprise all that part of the said Town which lies east of the said Bowery Street and north of the Bay.

And the said Tecumseth Ward to comprise all that part of the said Town which lies on the south side of the Bay.

13. *Port Hope*.—To consist of all that part of this Province, situate within the County of Durham, and lying within the following limits, that is to say:

Composed of Lots numbers four, five, six, seven and eight, and the east half of Lot number nine in the first Concession of the Township of Hope, and the broken fronts of the said Lots and Half-lot, together with all those parts of Lots numbers four and five in the second Concession of the said Township of Hope, with the road allowance between the said first and second Concessions and butted and bounded as follows, that is to say:

Commencing in rear of the first Concession at the north-east angle of Lot number four in the first Concession; thence, in a northerly direction, across, the said allowance for road, to the south-east corner of Lot number four in the second Concession; thence, northerly, along the easterly side of the said Lot number four in the second Concession, fifteen chains; thence, westerly, in a course parallel with the front of the said second Concession, twenty-five chains; thence, southerly, in a course parallel with the said line of Lot number four in the second Concession aforesaid, sixteen chains, more or less, to the rear line of the first Concession; thence, easterly, along the rear of the first Concession to the place of beginning, and also the water in front thereof to the distance of one-fourth of a mile into Lake Ontario.

The said Town to be divided into three Wards, to be called, respectively, First Ward, Second Ward, and Third Ward, and to comprise the following portions of the said Town, respectively, that is to say:

The said First Ward, to comprise all that part of the said Town which lies east of the River.

The said Second Ward to comprise all that part of the said Town which lies west of the River and south of Walter Street, continued westerly by Ridout Street, and the front or Lake Shore Road to the western limit of the said Town.

And the said Third Ward to comprise all that part of the said Town which lies west of the River and north of Walter Street, continued westerly by Ridout Street, and the said front or Lake Shore Road to the western limit of the said Town.

14. *Prescott*.—To consist of all that part of this Province situate within the County of Grenville, and lying within the following limits, that is to say :

Commencing at the south-eastern angle of the Township of Augusta ; thence, north, twenty-four degrees west to the rear of the first concession of the said Township ; thence, south-westerly, along the said concession line to the limit between the east and west half of lot number five in the first concession of Augusta aforesaid ; thence, south, twenty-four degrees east to the river St. Lawrence ; thence, north-easterly, along the water's edge to the south-eastern angle of the said Township to the place of beginning, and shall take in so much of the waters of the river St. Lawrence and the land under the wharves and buildings built in such waters, as lie within three hundred yards in every direction of the water's edge in front of the present limits of the said Town—

And divided into two Wards, in the following manner, that is to say :

All that part of the Town on the east side of the street called Centre street, leading from the river St. Lawrence to the rear line of the said Town, shall compose the East Ward ; and all that part of the Town on the west side of the aforesaid street called Centre street, shall compose the West Ward.

15. *Saint Catharines*.—To consist of all that part of this Province situate within the County of Lincoln, and lying within the following limits, that is to say :

Commencing at the north-east angle of lot number sixteen, in the sixth concession of the Township of Grantham, on Charles Roll's farm ; thence, south-westerly, along the road as now laid out, one hundred and thirty-five chains, more or less, crossing the Welland, at Ranney's mills, to the western limit of the Welland canal lands ; thence, southerly and easterly, along the Welland canal boundary until it intersects the allowance for road between the sixth and seventh concessions ; thence, south, sixty-five degrees west along the rear of the sixth concession, to the limit between lots numbers nineteen and twenty ; thence, south, crossing the main road to Hamilton, five chains ; thence, north, sixty degrees east, more or less, until it intersects the allowance for road between lots numbers sixteen and fifteen ; and thence, north, along the said allowance, more or less, to the place of beginning.

The said Town to be divided, into three Wards, to be called respectively, Saint Thomas' Ward, Saint George's Ward, and Saint Paul's Ward, and to comprise the following portions of the said Town respectively, that is to say :

The

The said Saint Thomas' Ward to comprise all that part of the said Town which lies within the following limits:

Commencing at the south-westerly angle of the said Town; thence, north, until it intersects the allowance for road between the sixth and seventh concessions of Grantham; thence, north, sixty-five degrees east, along the said allowance to the Welland canal; thence, down the said canal, to the northern and western limit of the Welland canal lands; thence, easterly, across the said canal, until it intersects the main road at the north-western boundary of the said Town; thence, north-easterly, along the said boundary until it intersects Ontario street; thence, up the said street until it intersects Saint Paul street; thence, southerly, on the said street until it intersects the concession line between the sixth and seventh concessions; thence, north-easterly, on the said line, until it crosses the Welland canal; thence, up the said canal until it intersects the eastern boundary of the said Town; thence, south, on the said boundary, until it intersects the south-easterly angle of the said Town; thence, north-easterly, to the place of beginning.

The said Saint George's Ward to comprise all that part of the said Town which lies within the following limits:

Commencing at the corner of Saint Paul and Ontario streets; thence, down the boundary of Ontario street to the north-westerly boundary line of the said Town; thence, north-easterly, on the said boundary to the north-east angle of the said Town; thence, south, until it intersects Saint Paul street; thence, up the said street to the place of beginning.

And the said Saint Paul's Ward to comprise all that part of the said Town which lies within the following limits:

Commencing at the intersection of Saint Paul's street with the eastern boundary of the said Town; thence, south, until it intersects the boundary of Saint Thomas' Ward on the Welland canal; thence, down the said canal until it intersects the line between the sixth and seventh concessions; thence, north, up the said concession line until it intersects Saint Paul street; thence, westerly, up the said street to the place of beginning.

SCHEDULE C.

CITIES.

1. *Hamilton*.—The City and Liberties thereof to consist of all that part of this Province situate within the County of Wentworth and lying within the following limits, hat is to say:

Commencing at the north-east corner of lot number eleven, in the Township of Barton, on the waters of Burlington Bay; thence, following the line between lots numbers ten and eleven, in a southerly direction, to the rear of the third concession of the said Township of Barton; thence, along the said concession, westerly, to the intersection of the line between lots numbers twenty and twenty-one of the said Township; thence, in a northerly direction, following the said line between the said lots numbers twenty and twenty-one until it reaches the Marsh at the head of Burlington Bay; thence, along the

the southerly and easterly margin of the said Marsh, to the waters of Burlington Bay; thence, along the southerly margin of Burlington Bay, to the place of beginning, including the several road allowances along the said boundary, and the harbour in front of the said City.

The said City to consist of all that part of the tract of land above described, lying within the following limits, that is to say :

Commencing at the north-east corner of lot number twelve, in the Township of Barton, on the waters of Burlington Bay; thence, following the line between lots numbers eleven and twelve, in a southerly direction, to the rear of the third concession of the said Township of Barton; thence, along the said concession, westerly, to the intersection of the line between lots numbers twenty and twenty-one of the said Township; thence, in a northerly direction, following the said line between the said lots numbers twenty and twenty-one until it reaches the marsh at the head of Burlington Bay; thence, along the southerly and easterly margin of the said marsh, to the waters of Burlington Bay; thence, along the southerly margin of Burlington Bay to the place of beginning, including the several road allowances along the said boundary, and the harbour in front of the said City.

The said City to be divided into five Wards, to be called respectively Saint George's Ward, Saint Patrick's Ward, Saint Lawrence Ward, Saint Andrew's Ward and Saint Mary's Ward, and to comprise the following portions of the said City respectively, that is to say :

The said Saint George's Ward to comprise all that part of the said City which lies south of King Street and west of John Street.

The said Saint Patrick's Ward to comprise all that part of the said City which lies south of King Street and east of John Street.

The said Saint Lawrence Ward to comprise all that part of the said City which lies north of King Street and east of John Street.

The said Saint Andrew's Ward to comprise all that part of the said City which lies north of King Street and between John and MacNab Streets.

And the said Saint Mary's Ward to comprise all that portion of the said City which lies north of King Street and west of MacNab Street.

And so much of the liberties of the said City as are adjacent to the respective Wards shall be attached to the same respectively, and the limits between the respective portions of the said liberties hereby attached to the different Wards of the said City be ascertained by the extension of the boundary lines between the said Wards respectively through the said liberties.

2. *Kingston.*—The City and Liberties thereof to consist of all that part of this Province situate within the County of Frontenac and lying within the following limits, that is to say :

Commencing

Commencing at the water's edge on Lake Ontario in the direction of the line between lots number twenty and twenty-one in the first concession of the Township of Kingston; thence, in a direct line to the second concession of the said Township of Kingston and across the road, between the first and second concessions to the south-easterly angle of lot number twenty-four in the said second concession; thence, north, on the side line of the said lot number twenty-four to a point in line with the limit between lots numbers four and five on the west side of the great river Cataraqui produced from the said river; thence, along the said limit to the water's edge at low water mark; thence, along the said edge of the great river Cataraqui and along the water's edge at low mark of Lake Ontario with the windings and turnings to the place of beginning, together with all the water lying between the front of the City and the opposite shore of the Township of Pittsburg, as far as Point Frederick, and beyond Point Frederick all the water lying in front of the said City and Liberties which may be distant five hundred yards from the Main shores of Wolfe Island, Garden Island and Simcoe Island.

The said City to consist of all that part of the tract of land above described lying within the following limits, that is to say:

Commencing at a point on a line produced five hundred feet from the shore in the direction of the line between lots numbers twenty-three and twenty-four, in the first concession of the Township of Kingston; thence, north, along the said line, to the front of the second concession of the said Township; thence, on the northerly side of the concession road, to the south-easterly angle of lot number twenty-four in the said second concession; thence, north, on the westerly side of the road, to a point directly opposite the boundary line dividing lots numbers one and two, on the west side of the great river Cataraqui; thence, along the said division line, to the water's edge of the said great river Cataraqui; thence, in prolongation of the said division line across the said river, to the water's edge on the easterly side thereof, and along the water's edge at low water mark, to the extreme south-westerly point of Point Frederick, in the Township of Pittsburgh; thence, southerly, parallel to the westerly boundary line of the said City, as hereinbefore set forth, to the distance of five hundred feet from the said south-westerly point of Point Frederick; thence, westerly, in a right line, to the place of beginning—

The said City to be divided into seven Wards, to be called, respectively, Sydenham Ward, Ontario Ward, Saint Lawrence Ward, Frontenac Ward, Cataraqui Ward, Rideau Ward, and Victoria Ward, and to comprise the following portions of the said City respectively, that is to say:

The said Sydenham Ward to comprise all that part of the said City which lies westward and southward of a line drawn from the foot of William Street through the centre of the said Street to the limits of the said City.

The said Ontario Ward to comprise all that part of the said City which lies between the last mentioned line of Sydenham Ward and a line drawn from the foot of Brock Street through the centre of the said Street to the limits of the said City.

The said Saint Lawrence Ward to comprise all that part of the said City which lies between the last mentioned line of Ontario Ward and a line drawn from the foot of Princess Street, through the centre of the said Street to the limits of the said City.

The

The said Cataragui Ward to comprise all that part of the said City which lies eastward and northward of a line drawn from the foot of Princess Street through the centre of the said Street to Montreal Street; thence, through the centre of Montreal Street aforesaid and across the Artillery Reserve, to the present travelled road known as the "Montreal Road;" thence, through the centre of the said road to the limits of the said City.

The said Frontenac Ward to comprise all that part of the said City which lies northward of the last mentioned line, running through the centre of Montreal Street and the Montreal Road to the City limits, and northward and eastward of a line extending from Montreal Street (where it intersects Princess Street) through the centre of Princess Street, to the limits of the said City.

The said Rideau Ward to comprise all that part of the said lot number twenty-four, lying on the north side of the continuation of Arthur Street, through the said lot in a direct line to the Concession Road between the first and second concessions of the said Township of Kingston.

And the said Victoria Ward to comprise all that part of the said lot number twenty-four lying on the south side of the said continuation of Arthur Street aforesaid.

And so much of the Liberties of the said City as are adjacent to the respective Wards, shall be attached to the same respectively, and the limits between the respective portions of the said liberties hereby attached to the different Wards of the said City, be ascertained by the extension of the boundary lines between the said Wards respectively and through the said Liberties.

3. *Toronto*.—The City and Liberties thereof to consist of all that part of the Province situate in the County of York, and lying between the following limits, that is to say:

Commencing at the distance of one chain, on a course, south, sixteen degrees east from the south-westerly corner of lot number two, in the first concession, from the Bay in the Township of York, in the County of York; thence, southerly, in the direction of the side line between lots numbers two and three, in that concession, to the distance of five hundred feet from the point at which the said line intersects the margin of the water on the shore of Lake Ontario; thence, westerly, through the waters of Lake Ontario, following the direction of the curvatures of the shore, and keeping always at the distance of five hundred feet from the margin of the water till the point is attained, which is five hundred feet from the north-westernmost point of the Island or Peninsula, forming the harbour; thence, across the Bay or harbour of York, to a point where a line, drawn southerly from the north-easterly corner of Park lot number twenty-nine, in the said Township of York, in the direction of the easterly boundary line of the said Park lot, intersects the margin of the water on the shore of Lake Ontario; thence, northerly, in the direction of the said line so drawn from the said corner of the said Park lot through the said corner, to the point at which the said line so drawn through the said corner intersects the northerly boundary line of the allowance for Road between the Park lots and the second concession from the Bay in the said Township of York; thence, easterly, along the said northerly boundary line of the said allowance for Road, to the easterly shore or waters' edge of the River Don; thence, southerly, along the
water's

water's edge, on the eastern side of the said River, to the point where the said water's edge intersects the southerly boundary line of the allowance for Road, in front of the said first concession; thence, easterly, along the southerly boundary line of the allowance for Road, in front of the said first concession, to the place of beginning—

The said City to consist of all that part of the tract of land above described lying within the following limits, that is to say:

Commencing at the distance of one chain, on a course north, seventy-four degrees east, from the south-east angle of Park lot number three, in the said Township of York; thence, south, sixteen degrees east, upon a continuation of the allowance for Road between Park lots numbers two and three to the water's edge of the Bay in front of the said City; thence, westerly, along the water's edge of the said Bay to the point at which the westerly limit of the allowance for Road between Park lots numbers eighteen and nineteen, in the said Township of York, being produced southerly, intersects the said water's edge; thence, northerly, in the direction of the said westerly limit of the said allowance for Road to the distance of four hundred yards north of the northerly boundary line of Queen Street; thence, easterly, parallel to Queen Street to the easterly boundary line of the allowance for Road between Park lots numbers two and three; thence, south, sixteen degrees east, along the easterly boundary line of the said allowance for Road, four hundred yards, more or less, to the place of beginning. And the remainder of the said tract, to constitute the Liberties of the said City.

The said City to be divided into six Wards to be called respectively, the Wards of St. James, St. David, St. Lawrence, St. George, St. Andrew and St. Patrick, and to comprise the following portions of the said City respectively, that is to say:

The said Ward of St. James to comprise all that part of the said City, lying between the northerly boundary line of King Street east, the westerly boundary line of Yonge Street, the easterly boundary line of Nelson Street, and the northerly boundary line of Queen Street east.

The said Ward of St. David to comprise all that part of the said City lying to the eastward of the westerly boundary line of Nelson Street, and to the north of the northerly boundary line of King Street east.

The said Ward of St. Lawrence to comprise all that part of the said City lying to the southward of the northerly boundary line of King Street east, and to the eastward of the westerly boundary line of Yonge Street.

The said Ward of St. George to comprise all that part of the said City, lying to the southward of the northerly boundary line of King Street, and to the westward of the westerly boundary line of Yonge Street.

The said Ward of St. Andrew to comprise all that part of the said City lying between the northerly boundary line of King Street east, and the northerly boundary line of Queen Street east, and west of the westerly boundary line of Yonge Street.

And the said Ward of St. Patrick to comprise all that part of the said City lying to the north of the northerly boundary line of Queen Street west, and west of the westerly boundary line of Yonge Street.

And so much of the Liberties of the said City as lies to the southward and eastward of the St. Lawrence Ward, shall be and is hereby attached to the St. Lawrence Ward ; so much thereof as lies to the northward and eastward of the St. David's Ward, shall be and is hereby attached to the said St. David's Ward ; so much thereof as lies to the northward of the said St. James's Ward, shall be and is hereby attached to the said St. James's Ward ; so much thereof as lies to the southward and westward of the St. George's Ward, shall be and is hereby attached to the said St. George's Ward ; so much thereof as lies to the westward of the St. Andrew's Ward, shall be and is hereby attached to the said St. Andrew's Ward ; and so much thereof as lies to the northward and westward of the St. Patrick's Ward, shall be and is hereby attached to the said St. Patrick's Ward ; the limits between the respective portions of the said Liberties hereby attached to the different Wards of the said City being ascertained by the extension of the boundary lines between the said Wards respectively, through the said Liberties, except the boundary line between the portions hereby attached to the St. Lawrence Ward, and that hereby attached to the St. David's Ward, which shall consist of the northerly boundary line of King Street east to the River Don.

C A P. L X X X I I .

An Act to amend the Charter of the University established at Toronto by His late Majesty King George the Fourth, to provide for the more satisfactory government of the said University, and for other purposes connected with the same, and with the College and Royal Grammar School forming an appendage thereof.

[30th May, 1849.]

WHEREAS a University for the advancement of Learning in that division of the Province called Upper Canada, established upon principles calculated to conciliate the confidence and insure the support of all classes and denominations of Her Majesty's subjects, would, under the blessing of Divine Providence, encourage the pursuit of Literature, Science and Art, and thereby greatly tend to promote the best interests, Religious, Moral and Intellectual of the people at large : And whereas, with a view to supply the want of such an Institution, His late Majesty King George the Fourth, by Royal Charter, bearing date at Westminster, the fifteenth day of March, in the eighth year of His Reign, was pleased to establish at Toronto, then called York, in that division of the Province, a Collegiate Institution, with the style and privileges of a University, and was afterwards pleased to endow the said Institution with certain of the Waste Lands of the Crown, in that part of the Province : And whereas the people of this Province consist of various denominations of Christians, to the members of each of which denominations it is desirable to extend all the benefits of a University Education, and it is therefore necessary that such Institution, to enable it to accomplish its high purpose, should be entirely free in its government and discipline from all Denominational bias, so that the just rights and privileges of all may be fully maintained without

Preamble.

Royal Charter
of 18th March,
1828, cited.

offence

Despatch of
8th Novr.,
1832, cited.

Act of U. C. 7
W. 4. c. 16,
cited.

Repeal of 7 W.
4. c. 16.

Repeal of so
much of Char-
ter as is incon-
sistent with
this Act.

Corporate
name and
powers.

offence to the religious opinions of any; And whereas the Legislature of the late Province of Upper Canada having been invited by His late Majesty King William the Fourth, "to consider in what manner the said University could be best constituted for the general advantage of the whole Society," as appears by the Despatch of His Majesty's Secretary of State for the Colonies, bearing date the eighth day of November, in the year of our Lord one thousand eight hundred and thirty-two, the Parliament of that Province, afterwards, by an Act passed in the seventh year of the Reign of His said late Majesty King William the Fourth, chaptered sixteen, and intituled, *An Act to amend the Charter of King's College*, did alter and amend the said Charter in certain particulars, in order, as the Preamble to the said Act recites, "to meet the desire and circumstances of the Colony:" And whereas such alteration and amendment have been found insufficient for these purposes, and therefore, as well for the more complete accomplishment of this important object, in compliance with His said late Majesty's Most Gracious invitation, as for the purpose of preventing the evil consequences to which frequent appeals to Parliament on the subject of the constitution and government of the said University is calculated to produce, it has become expedient and necessary to repeal the said Act, and to substitute other Legislative provisions in lieu thereof: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that the said Act shall be and the same is hereby repealed.

II. And be it enacted, That so much of the said Charter, so granted by His said late Majesty King George the Fourth as aforesaid, as is contradictory to or inconsistent with this Act or any of the provisions thereof, or as makes any provision in any matter provided for by this Act other than such as is hereby made in such matter, shall be, and the same is hereby repealed and annulled; any thing in the said Charter or the said Act of the Parliament of the late Province of Upper Canada to the contrary notwithstanding.

II. UNIVERSITY OF TORONTO.

III. And be it enacted, That from henceforth the said University so established by the said Royal Charter of His said late Majesty King George the Fourth, bearing date the fifteenth day of March, in the eighth year of His Reign as aforesaid, shall be known and designated by the name and style of "The Chancellor, Masters and Scholars of the University of Toronto," in the stead and place of the name given thereto in and by said Charter, and the same shall continue to be a University for the Education of Youth, and the conferring Degrees in Arts and Faculties, as provided by the said Charter; and the said University, by the said name of "The Chancellor, Masters and Scholars of the University of Toronto," shall continue to be a Body Corporate and Politic, with perpetual succession and a Common Seal, and all other corporate and other rights, powers and privileges conferred by the said Royal Charter, except so far as the same are repealed, altered or modified by the provisions of this Act, and all and singular the rights, powers and privileges conferred by the said Charter, except as aforesaid, shall be and the same are hereby confirmed to the said Chancellor, Masters and Scholars, and their Successors for ever; And the said University, by and under the name

name aforesaid, shall be able and capable in Law of purchasing, acquiring, taking, having, holding and enjoying by gift, grant, conveyance, devise, bequest, or otherwise, to them and their Successors, any estate or property, real or personal, to and for the use of the said University, or to, for, or in trust for any other use or purpose whatsoever in any way connected with the advancement of Education or the Arts or Sciences, and of letting, conveying or otherwise disposing thereof from time to time as they may deem necessary or expedient.

Power to take and hold property for certain purposes:

IV. And be it enacted, That the Governor, or person administering the Government of this Province for the time being, shall be the Visitor of the said University for and on behalf of Her Majesty, Her Heirs and Successors, which Visitation power shall and may be exercised by Commission under the Great Seal of this Province, the proceedings whereof having been first confirmed by the Governor, or person administering the Government of the Province in Council, shall be binding upon the said University and its Members, and all others whomsoever.

Governor to be the Visitor.

Powers to be exercised by Commission, &c.

V. And be it enacted, That there shall be a Chancellor of, in and for the said University, who shall be elected by a majority of voices in open convocation, and shall hold office for the period of three years; Provided always nevertheless, firstly, that the person so to be elected Chancellor shall be a natural born or naturalized subject of Her Majesty, and shall not be a Minister, Ecclesiastic or Teacher under or according to any form or profession of religious faith or worship whatsoever; and provided also, secondly, that at the time of his election, or while he shall continue Chancellor, he shall not hold any other office, place or employment, either in the said University or in any other University, College, Seminary, School or place of Learning or Education in this Province, or elsewhere.

Chancellor to be elected triennially by convocation.

Proviso: to be a subject of Her Majesty and not an Ecclesiastic, &c.

Proviso: not to hold any other educational employment.

VI. And be it enacted, That there shall be a Vice-Chancellor, of, in and for the said University, who shall be or shall have been a Professor of and in the same, and shall be elected annually by the Senate of the said University; Provided always nevertheless, firstly, that the person so to be elected Vice-Chancellor shall be a natural born or naturalized subject of Her Majesty, and shall not, at the time of his election, or while he shall continue Vice-Chancellor, hold any office, place or appointment in any other University, College, Seminary, School or place of Learning or Education in this Province, or elsewhere; and provided also, secondly, that the election of any Professor of the said University to be Vice-Chancellor, as aforesaid, shall not in any way affect any Professorship or Professorships that he may then hold, but the same shall continue to be held by him as if he had not been elected such Vice-Chancellor; and provided also, thirdly, that such Vice-Chancellor shall, during the time that he shall hold such office, reside within the said University, or if permitted so to do by any Statute of the said University to be passed for that purpose, then in such place as may be prescribed by such University Statute.

Vice-Chancellor to be elected annually by Senate.

Proviso: to be a subject of Her Majesty, &c.

Proviso: his election not to prevent his being also a Professor.

Proviso: to reside in University, unless permitted by Statute to reside elsewhere.

VII. And be it enacted, That there shall be a President of in and for the said University, who shall be appointed by the Crown under the Great Seal of the Province; Provided always nevertheless, firstly, that the person so to be appointed President shall be a natural born or naturalized subject of Her Majesty, and shall not at the time of his appointment, or while he shall continue President thereof, hold any office, place or appointment in any other University, College, Seminary, School, or place of Learning

President to be appointed by Crown.

Proviso: to be a subject of Her Majesty, and not to hold any other educational employment, or

To reside in University unless permitted to reside elsewhere.

Provision for supplying a temporary vacancy.

or Education in this Province, or elsewhere; and provided also, secondly, that such President shall, during the time that he shall hold such office, reside within the said University, or if permitted so to do by any Statute of the said University, to be passed for that purpose, then in such other place as may be prescribed by such University Statute; and provided also, thirdly, and lastly, that during the vacancy of the office of President of the said University, such temporary provision shall and may be made by the Caput of the said University for the performance in the best manner in their power of the duties attached to such office as shall or may be directed or appointed by any University Statute to be passed for that purpose.

Convocation to appoint a Pro-Vice-Chancellor yearly; his duties.

VIII. And be it enacted, That it shall and may be lawful for the Convocation to appoint annually a Pro-Vice-Chancellor, who shall be authorized to perform the duties of the said office of Vice-Chancellor, whenever the said Vice-Chancellor shall from illness or otherwise be unable to perform the same himself.

Precedence of Vice-Chancellor and other Officers.

IX. And be it enacted, That the Vice-Chancellor of the said University, or in his absence, the Pro-Vice-Chancellor, while actually performing the duties of Vice-Chancellor, shall take precedence next after the Chancellor thereof, and the President of the said University next after the Vice-Chancellor, or Pro-Vice-Chancellor, while so actually performing the duties of Vice-Chancellor, and the Pro-Vice-Chancellor, except as aforesaid, next after the President: And the Professors, Officers, Members and Servants of the said University in such order as shall or may from time to time be fixed by any Statute of the said University to be passed for that purpose.

Duties of Vice-Chancellor.

Duties to be designed by Statute.

Proviso: powers not to interfere with those of President.

X. And be it enacted, That it shall be the duty of the Vice-Chancellor of the said University, in subordination to the Senate thereof, to maintain and enforce the observance of the Statutes of the said University by the President and Professors and other Members thereof, and to maintain and enforce all necessary discipline therein in regard to such President, Professors and Members, by admonitions and otherwise, as shall or may by Statute of the said University be provided in that behalf, together with all such other duties, consistent with the powers by this Act conferred upon other Officers of the said University, as shall or may by any such Statute be directed or provided, or to the said office attached: Provided always nevertheless, that nothing herein contained shall be construed to interfere with the power over the Students and Members in *statu pupillari* of the said University, hereinafter conferred upon the President thereof.

Duties of President.

Duties to be assigned by Statute.

XI. And be it enacted, That it shall be the duty of the President of the said University, in subordination to the Caput and Senate thereof, to exercise a general superintendence over all the Students and Members in *statu pupillari* of the said University and over all the officers and servants of the same, and over the studies, lectures, examinations, exercises, and literary pursuits prescribed to such undergraduates by or under the authority of the Statutes of the said University, saving always nevertheless the powers and privileges by this Act conferred upon the Deans and Faculties of the said University, with all such other duties, as consistently with the powers by this Act conferred upon other officers of the said University, shall or may by any such Statute be directed or provided or to the said office attached.

XII. And be it enacted, That there shall be no Faculty of Divinity in the said University, nor shall there be any Professorship, Lectureship or Teachership of Divinity in the same, but that the present Faculty of Divinity shall have power to confer degrees in Divinity upon such Students and other Members of the said University as have hitherto been, or at present are pursuing their studies in that Faculty on their becoming entitled to such degrees according to the existing Statutes of the said University, as far as the requirements of such Statutes shall be capable of being complied with after the passing of this Act, which degrees shall be as valid and effectual to all intents and purposes whatsoever as if they had been conferred by the said University previous to the passing of this Act, except that their date shall for all purposes relating to the standing of the parties on whom they shall be conferred, be reckoned from the time at which they shall have actually been conferred by such Faculty.

No Faculty or Professorship of Divinity.
But the present Faculty may confer Degrees on those who are now Students.

XIII. And be it enacted, That there shall be in the said University three Faculties, to be called the Faculty of Law, Medicine and Arts respectively, each of which Faculties shall be composed of such of the Professors as shall be fixed by any University Statute to be passed for that purpose, and shall be presided over by a Dean to be elected annually from among the Professors composing such Faculty, and each of such Faculties shall and may moreover make such By-laws as they may think proper for the government of such Faculty, such By-laws not being contrary to this Act, or to the Charter or Statutes of the said University; Provided always nevertheless, that no such By-law shall be of any force or effect until approved by the Senate of the said University, at a meeting thereof to be called for the purpose of considering the same. Provided always, that if in the election of a Dean the votes be equally divided, the senior Professor of such Faculty shall have an additional or casting vote in such election.

Three Faculties, Law and Medicine and Arts, with Deans, and power of making By-laws.

Provide: By-laws to require assent of Senate.

Provide: casting vote in the election of a Dean.

XIV. And be it enacted, That there shall be in the said University a Council of five Members, to be called the Caput of the said University, which Caput shall consist of the President of the said University for the time being, the Deans of the three Faculties of Law, Medicine and Arts, and a fifth Member to be appointed to such Council by the convocation of the said University annually, of which Caput any four Members shall be a quorum for the despatch of business, in which said Caput the President of the said University, or in his absence the Deans of Faculty, in the order above mentioned, shall preside.

Caput of five Members, President, three Deans and fifth Member appointed by the convocation.

Quorum: Who shall preside.

XV. And be it enacted, That the ordinary general discipline, and government of the said University in subordination to the Senate thereof, shall be vested in and exercised by the Caput of the said University, and that all the acts of the Vice-Chancellor and of the President of the said University, except in matters in which such Vice-Chancellor, or President, is, or shall be intrusted with separate, distinct and independent powers, either by this Act, the Charter of the said University, or some Statute thereof, shall be under the direction and subject to the controul of the said Caput, which, except as before excepted, shall have full power to make orders and give directions in all such matters, subject nevertheless to an appeal to the Senate of the said University in all matters directly affecting any of the Professors or Officers thereof, or involving the expulsion of any Member from the said University: Provided always, nevertheless, that the mode and manner of exercising the powers hereby vested

General powers and duties, &c., of Caput.

Appeal to the Senate in certain cases.
Provide: exercise of such

powers may be regulated by Statute.

vested in the said Caput shall and may from time to time be regulated and directed by Statutes of the said University to be passed for that purpose.

Caput to report annually to Senate and transmit a duplicate to the Governor.

XVI. And be it enacted, That it shall be the duty of the said Caput to make an Annual General Report to the Senate of the said University, on the general state, condition, progress and prospects of the said University, and all things touching the same, and to make such suggestions as they may think proper for the improvement of the same, a duplicate of which said report such Caput shall transmit to the Governor, or person administering the Government of the Province for the time being, through the Provincial Secretary thereof.

Of whom the Senate shall consist.

XVII. And be it enacted, That there shall be in the said University a Deliberative Body, to be called the Senate of the said University, which shall consist of the Chancellor, Vice-Chancellor, the President, and all the Professors of the said University, and of twelve or more additional Members, who shall be appointed to seats in the same one half thereof by the Crown and the other half thereof by such Colleges in Upper Canada as now are or hereafter shall be incorporated, with the power of conferring Degrees in Divinity, and not in the other Arts or Faculties, each of which additional Members, except those who shall be first appointed to such seats under this Act, and those who shall be appointed to fill such seats for the residue of the term of office of their immediate predecessors respectively, shall hold his seat in the said Senate for a term of three years, and shall be appointed to and vacate the same according to a cycle to be established by a Statute of the said University to be passed for that purpose, and which shall make such provision for the same as shall insure, that, as nearly as may be, one third of the said additional Members so to be appointed by the Crown as aforesaid, and also one third of the said additional Members so to be appointed by the said Colleges, shall respectively vacate their seats in such Senate every year: Provided always nevertheless, firstly, that fifteen Members shall be a quorum for the despatch of business, and that the Chancellor, and in his absence the Vice-Chancellor, and in the absence of both the Pro-Vice-Chancellor, and in the absence of all, then the President of the said University shall preside at all meetings of the said Senate, and in the absence of all such Officers, then such other Member of the said Senate as shall be appointed for that purpose for the time; And provided also, secondly, that no person shall be qualified to be appointed by the Crown to any such seat in the said Senate who shall be a Minister, Ecclesiastic, or Teacher, under or according to any form or profession of Religious Faith or Worship whatsoever: And provided also, thirdly, that no person shall be qualified to be appointed either by the Crown or by any such Incorporated College to a seat, in the said Senate, who shall not have taken the Degree of Master of Arts, or any Degree in Law or Medecine in the said University at least five years prior to the time of his appointment to such seat: Provided always, nevertheless, fourthly, and lastly, that the restriction contained in the said last foregoing Proviso to this Section, shall not apply to any appointments to be made to such Senate prior to the year of our Lord, one thousand eight hundred and sixty.

Term of office of additional Members.

Proviso: Quorum, and who to preside.

Proviso: Crown not to appoint Ecclesiastics.

Qualification of Senators to be appointed by the Crown or an Incorporated College.

Proviso: such Proviso not to apply to any appointment before 1860.

Number of additional Members appointed by Colleges and the Crown to be always equal.

XVIII. And be it enacted, That every such Incorporated College in Upper Canada, as is described in the next preceding section of this Act, shall be entitled to appoint one of such additional Members of such Senate, and that the Crown shall in like manner be entitled to appoint one other of such additional Members for every Member that such Colleges shall be so entitled to appoint respectively as aforesaid, so that

that in all time to come, the number of Crown Seats and the number of the Collegiate Seats in such Senate shall be equal: Provided always, nevertheless, firstly, that until there shall be at least six such Incorporated Colleges in Upper Canada, entitled to appoint to seats in such Senate, according to the provisions of this and the next preceding section of this Act, it shall and may be lawful for the Crown, besides appointing to the corresponding Crown Seats in such Senate, to appoint also to the six Collegiate Seats therein, or to so many of them as there shall or may from time to time be no such Incorporated College entitled to appoint to: And provided also, secondly, that in making such appointments to such Collegiate Seats in such Senate, the Crown shall not be restricted in its choice, as by the second proviso to the said next preceding section of this Act is provided.

Proviso :
Crown to ap-
point to Colle-
giate Seats
until there are
six Colleges
entitled.

Proviso :
Crown not
restricted by
2d Proviso of
Sec. 17.

XIX. And be it enacted, That the Senate of the said University shall have full power and authority to frame and make such Statutes, Rules and Ordinances as they may think necessary or expedient touching or concerning the good government of the said University, or touching or concerning the Professors and all others holding office in the same, the Studies, Lectures, Examinations, Exercises, Degrees in Arts and Faculties to be pursued, given, had, or held therein, and all matters touching the same; and for the summoning and holding regular or Special Meetings of the Caput, and of the Senate, and for the times and mode of summoning and holding Convocations of the said University, and all matters relative to the same; the duties of the Chancellor, and the residence and duties of the Vice-Chancellor and President of the said University; the number, examination, residence, duties and order of precedence and seniority of the Professors of the said University; the number of Fellowships, Scholarships, Exhibitions and other Prizes of, and in the said University, and all matters relative to the establishment of such Fellowships, Scholarships, Exhibitions and Prizes, and the Examination of Candidates for the same; the number, residence, appointment and duties of all Officers and Servants of the said University, the management of the property and revenues thereof, the salaries, stipends, provision, fees and emoluments of and for the Vice-Chancellor, President, Professors, Fellows, Scholars, Officers and Servants of the said University, and generally concerning any other matter or thing for the well-being and advancement of the said University; and also from time to time to revoke, renew, augment or alter all, every or any of the said Statutes, Rules and Ordinances as to them shall seem meet or expedient: Provided always nevertheless, firstly, that such Statutes, Rules or Ordinances, or any of them, shall not be repugnant to the Laws or Statutes of this Province: Provided also, secondly, that no such Statute, Rule or Ordinance shall be passed and adopted at the same Meeting at which it is at first introduced and considered, but that a Second Meeting of the said Senate shall be specially convened for the passing and adopting any such Statute, Rule or Ordinance: And provided also, thirdly, and lastly, that it shall and may be lawful for the Crown, at any time within two years from the passing of any such Statute, Rule or Ordinance, by Letters Patent under the Great Seal of this Province, to disallow such Statute, Rule or Ordinance, and thereupon every such Statute, Rule or Ordinance shall from the date of such Letters Patent, stand repealed and be of no force or effect whatsoever.

Powers of
Senate to
make Statutes
for certain pur-
poses.
Good Govern-
ment of Uni-
versity, and
Officers' stu-
dies, &c.
Meetings of
Caput, &c.
Duties of
Officers.
Fellowships,
&c.
Officers and
Servants.

Salaries, fees,
&c.,

Altering By-
laws.

Proviso : not to
be repugnant
to Law of
Canada.

Proviso : not to
be proposed
and passed at
the same
Meeting.

Proviso :
Crown may
disallow any
Statute within
two years.

XX. And be it enacted, That the Chancellor, Vice-Chancellor, President, and Professors of the said University, and all persons admitted in the said University to any Degree in Law or Medicine, or to that of Master in any of the other Arts or Faculties, and who shall have paid from the time of his admission to such Degree the annual

Who shall be
Members of
the Convoca-
tion.

Proviso: that
Honorary
D.gree not to
confer a vote.

annual sum of twenty shillings of lawful money of Canada for and towards the support and maintenance of the said University, shall be and be deemed, taken and reputed to be Members of the Convocation of the said University: Provided always, nevertheless, that no person upon whom an Honorary Degree only shall have been conferred by the said University, shall have any right by virtue thereof to vote as a Member of such Convocation.

Endowment
Board consti-
tuted for the
University and
Upper Canada
College.

Quorum.

Proviso: Crown Mem-
ber to be
Chairman of
Board, and to
hold no other
office in Uni-
versity, &c.

XXI. And be it enacted, That there shall be for the said University, and for the College and Royal Grammar School of Upper Canada College, a Body to be called "The Endowment Board of the University of Toronto and of the College and Royal Grammar School of Upper Canada College," which shall consist of five Members, who shall hold their places at such Board, during the pleasure of the parties in whom their appointment is hereby vested respectively, one of which Members shall be appointed by the Governor, or person administering the Government of this Province for the time being, one by the Senate of the said University, one by the Caput thereof, and one by the College Council of the said College and Royal Grammar School, on a majority of them, of which Board any three Members shall form a quorum for the despatch of business: Provided always nevertheless, firstly, that the Member of such Board to be so appointed by the Governor, or person administering the Government of the Province, as aforesaid, shall be the Chairman of such Board, and shall be so expressly named in the Instrument by which he shall be so appointed, which said Chairman of the said Board shall be a person holding no Professorship, Office or Employment whatsoever in the said University, or in the said College or Royal Grammar School, or in any other University, College, Collegiate Institution, School, or other place of Learning in this Province, or elsewhere, and shall not be a Member of the Senate or Caput of the said University, or of any other such University, College, Collegiate Institution, School, or other place of Learning as aforesaid, nor shall he, during the time that he shall continue to be Chairman of such Board, be capable of being appointed to any such Professorship, Office or other Employment whatsoever, either in the said University, or in the said College and Royal Grammar School, or in any such other University, College, Collegiate Institution, School, or other place of Learning, as aforesaid, or to any seat in the Senate or Caput of the said University, or Council of the said College and Royal Grammar School, or in any other Council, Board or Body, belonging to, or connected with the same, or any of them: And provided also, secondly, that each Member of such Board shall give such security for the proper discharge of his duty as shall be settled by a Statute of the University in that behalf.

Proviso: Mem-
bers to give
security.

Endowment
Board to have
charge of prop-
erty, &c., of
University.
Power to alien-
ate endow-
ment limited.

Proviso. to
give all infor-
mation called
for the Govern-
or, by Caput,
&c.

XXII. And be it enacted, That it shall be the duty of the said Endowment Board to take upon themselves the general charge, superintendence and management of the whole property and effects, real and personal, of the said University, under the direction of such University Statutes as shall or may be passed for that purpose: Provided always nevertheless, firstly, that nothing herein contained shall be construed to confer upon the said Endowment Board a power to alienate any portion of the endowment of the said University, contrary to the provisions of the thirty-seventh Section of this Act: And provided also, secondly, that such Endowment Board shall from time to time, and at all times, as the same may be required, afford to the Governor, or person administering the Government of this Province for the time being, and also to the Chancellor, Caput and Senate of the said University, or to such Committee or Committees of such

Caput

Caput or Senate as they may respectively appoint for that purpose, all such information respecting such property and effects, and the whole fiscal or financial affairs of the said University, as the said Governor, or person administering the Government of the Province, or the said Chancellor, Caput or Senate, or any such Committee or Committees of such Caput or Senate shall or may from time to time require: And provided also, thirdly, that such Board shall in like manner afford the like information to the Auditors to be appointed annually for auditing the accounts of the said University: And provided also, fourthly and lastly, that it shall moreover be the duty of such Board annually to make a full report of the state of the property and effects of the said University under their charge, superintendence and management, and generally of the whole fiscal or financial affairs of the said University, to the Senate of the said University, and at the same time to transmit a duplicate of such report to the Governor or person administering the Government of this Province, through the Provincial Secretary thereof.

To give like information to Auditors.

Proviso: to make Annual Fiscal Report to Senate, &c. to transmit duplicate to Governor, &c.

XXIII. And be it enacted, That there shall be two Auditors of Accounts of the said University, to be appointed annually, one by the Chancellor, or in default of such appointment, by the Vice-Chancellor of the said University, and the other by the Senate thereof, whose duty it shall be to examine and audit the Accounts of the said Endowment Board, as far as they regard the property and effects of the said University, and all other Accounts of the said University generally, and to make a report upon the same to the Senate of the said University, a duplicate of which report such Auditors shall transmit to the Governor, or person administering the Government of the Province for the time being, through the Provincial Secretary thereof.

Two Auditors to be appointed, and by whom; their duties; to report to Senate, and send duplicate to Governor, &c.

XXIV. And be it enacted, That the Professors of the said University shall be appointed by the Crown upon the report or resolutions of the Senate of the said University in the manner following, that is to say: whenever any new Chair shall be established in such University, or whenever any Chair theretofore established in the same shall become vacant, by death or otherwise, it shall be the duty of the Caput of the said University, under and subject to such regulations as may be established by any University Statute to be passed for that purpose, to make known by public advertisement the fact of such Chair being vacant as aforesaid, the duties imposed by the Statutes of the said University upon the incumbent of such Chair, together with the salary and emoluments belonging to the same, and requiring that the names, residence and additions, and also the testimonials of all Candidates for such Chair, should be transmitted to and deposited in the proper office of the said University, by a day to be named in such advertisements; and it shall be the duty of the said Caput, on some day to be specially appointed for that purpose, after the day so fixed for the receipt of such applications as aforesaid, to proceed to take the said testimonials of the different candidates for such Chair into consideration, and thereupon, on the same, or on some subsequent day, and with as much deliberation as may be, to make a report addressed to the Senate of the said University upon the same, and the said Senate shall be specially called together by a notice addressed to each Member thereof, and sent to him through the Post Office, to take such report into consideration, and it shall be the duty of the said Senate, upon full examination of such testimonials, and the report of the Caput upon the same, and if in their discretion they shall think fit so to do, or if the same shall be required by any Statute of the said University to be passed for that purpose, then by personal, public, oral examination of such

Appointment of Professors to be in the Crown out of three to be reported by Senate.

Manner of making the selection of such three.

Senate to examine testimonials, &c.

such candidates, and by all such other ways, methods and means as shall or may be directed in that behalf by any such University Statute, to select three of the candidates for the said Chair, whom in their judgment, the said Senate shall deem best qualified to fill the same, with advantage to the said University, and to transmit the names of such three candidates together with their testimonials, the report of the Caput thereon, and their own report or resolutions, adopting, qualifying or dissenting from such report, or any part thereof, with their reasons therefor, and for the selection of such three candidates to the Governor, or person administering the Government of this Province for the time being, through the Provincial Secretary thereof; and it shall and may be lawful for the said Governor, or person administering the Government of this Province for the time being, to appoint some one of the said three candidates to fill such vacant Chair in the said University: Provided always nevertheless, firstly, that no sitting of the Senate of the said University shall be held to take such testimonials and the report of the Caput thereon into consideration, or for the examination of the candidates for such Chair, within a shorter period than one calendar month after such report of the said Caput shall have been prepared, and the notice of such sittings addressed to the different Members of the said Senate delivered to the Post Office as aforesaid: And provided also, secondly, that in case there shall not be as many as three, of the said candidates for such vacant Chair, whom the said Senate shall in their judgment deem qualified to fulfil the duties thereof as aforesaid, they shall nevertheless still transmit the names of three of such candidates, if there shall have been so many, and shall, in so transmitting the same, state which of such three candidates they do not deem sufficiently qualified to be appointed to such vacant Chair, as aforesaid, and the grounds of such opinion: And provided also, thirdly, and lastly, that during the vacancy of any such Chair such temporary provision shall and may be made by the Caput of the said University for the performance of the duties attached to the same as shall or may be directed and appointed by any University Statute to be passed for that purpose.

Proviso: interval between Caput's report and sitting of Senate thereon.

Proviso: if three be not found capable of filling Chair, fact to be stated in report of Senate.

Proviso: temporary provision to be made during the vacancy.

Senate to have power to suspend a Professor:

Proviso: Entry to be made of the grounds of suspension. Effect of suspension.

Proviso: copy to be sent to Visitor.

Proviso: suspension for three months without appeal to vacate the Chair.

Proviso: temporary provision for performance of duties.

XXV. And be it enacted, That it shall and may be lawful for the Senate of the said University, upon the report of the Vice-Chancellor thereof, or upon that of a Committee of its own Members, to suspend any Professor of the said University from his office for any just and reasonable cause to them appearing: Provided always, nevertheless, firstly, that the grounds of every such suspension shall be entered and recorded at length on the books of the said Senate; and every Professor so suspended shall thereupon cease from the performance of his duties and from the exercise of his rights, functions and privileges until, and unless such suspension shall be removed by the Visitor of the said University under his Privy Seal: And provided also, secondly, that a copy duly authenticated of the entry and record of such suspension, and the grounds thereof, be forthwith transmitted to the said Visitor through the Provincial Secretary: And provided also, thirdly, that the continuance of any such suspension for a period of three calendar months continually without any appeal by such Professor to the said Visitor, against such decision of the said Senate, shall *ipso facto* vacate such Professorship, as if the party so suspended were naturally dead: And provided also, fourthly, and lastly, that during every such suspension, such temporary provision shall and may be made by the Caput of the said University for the performance in the best manner within their power of the duties of such suspended Professor as is hereinbefore provided with respect to those of a vacant Chair.

XXVI. And be it enacted, That if upon the report of the Vice-Chancellor, or upon that of a Committee of their own Members, the Senate of the said University, after affording to the party all reasonable opportunity of being heard in his defence, shall report to the Governor, or person administering the Government of this Province for the time being, through the Provincial Secretary thereof, their opinion that any Professor of the said University ought to be removed from his Professorship, and shall in such report set forth at length the grounds and reasons for such opinion, it shall and may be lawful for the Governor, or person administering the Government thereof for the time being, if he shall deem it just and proper so to do, by an Instrument under his Privy Seal to remove such Professor from his Professorship, and thereupon such Chair shall be dealt with as if it had become vacant by the death of such Professor.

Governor may remove any Professor on report of Senate.

XXVII. And be it enacted, That the examinations of Candidates for Professors, Chairs, and for Degrees in Arts and Faculties in the said University shall be public, and shall be conducted by such and so many Examiners as shall or may be appointed by the Senate of the said University, according to the provisions of any University Statute or Statutes to be passed for that purpose.

Examinations for Professorship or Degrees to be open, and by what examiners.

XXVIII. And be it enacted, That the said University shall have no power to confer any Degree in Divinity, but shall have full power and authority to confer all other Degrees in all other Arts and Faculties whatsoever, including Honorary Degrees, and Degrees *ad eundem*, and all other University powers and privileges, as fully and effectually to all intents and purposes whatsoever as such power and authority is held, possessed or enjoyed by the Universities of the United Kingdom of Great Britain and Ireland, or any of them: Provided always, nevertheless, that Degrees *ad eundem* shall by the said University be conferred only upon the Graduates of Universities within Her Majesty's Dominions, or on the Graduates of such Foreign Universities as shall or may from time to time be declared entitled to the said privilege by a Statute or Statutes of the said University to be passed for that purpose.

University not to confer any Degree in Divinity—but in all the other Arts and Faculties.

Proviso as to Degrees *ad eundem*.

XXIX. And be it enacted, That no religious Test or qualification whatsoever shall be required of or appointed for any person admitted or matriculated as a Member of such University whether as a Scholar, Student, Fellow, or otherwise, or of or for any person admitted to any Degree in any Art or Faculty in the said University, or of or for any person appointed to any Office, Professorship, Lectureship, Mastership, Tutorship, or other place or employment whatsoever in the same, nor shall religious observances, according to the forms of any particular Religious Denomination, be imposed upon the Members or Officers of the said University, or any of them.

No Religious Test required of persons admitted into University, or to any Office therein.

XXX. And be it enacted, That it shall not be lawful for the Chancellor, Masters and Scholars of the University of Toronto, or for the said Endowment Board, on their behalf, to borrow any money on the security of the said University, or of the funds or other property thereof, or otherwise howsoever, except under the authority of a Statute of the said University, by which Statute there shall at the time be appropriated, such an amount of the annual income of the said University, arising from the interest and dividends of money actually invested under the authority of the thirty-eighth Section of this Act, as shall be sufficient to meet the annual interest upon such loan, and in addition thereto a sufficient sum per centum per annum upon the original principal

University not to borrow money except by Statute, nor without providing a Sinking Fund to pay off the Loan in twenty years.

Rank of such appropriation as a charge on the University Fund.

Statute not to be repealed.

A Copy of every Book, &c. published in the Province to be presented to the Library of the University.
And of any further editions.

Penalty for not presenting such copy.

How recoverable.

Property of University vested in Corporation.

principal of such loan, to constitute a Sinking Fund for the final redemption, satisfaction and discharge of the said original principal of such loan within at least twenty years from the time of the contracting of the same, and the annual interest of such loan, and the annual appropriation for such Sinking Fund for the redemption and satisfaction thereof, shall constitute an extra charge upon the Income Fund of the said University as hereinafter established, which so long as any part of the said original principal of such loan shall remain unpaid shall take precedence of the fourth, fifth and sixth ordinary annual charges upon such Income Fund as the same are respectively charged and imposed upon the same by the fortieth Section of this Act: And until such payment and satisfaction of the whole principal and interest of such loan, any University Statute, either Visitatorial or Senatorial, whereby such provision shall or may be attempted to be repealed or altered, shall be null and void to all intents and purposes whatsoever.

XXXI. And be it enacted, That a printed copy of the whole of any book which shall be published in this Province after the passing of this Act, whether consisting of the whole or only part of a volume, if separately published, together with all maps, prints, or other engravings belonging thereto, and of every pamphlet, sheet of letter-press, sheet of music, map, chart or plan separately published, furnished and coloured in the same manner as the best copies of the same shall be published, and also of any second or subsequent edition which shall be so published, with any additions or alterations, whether the same shall be in letter-press, or in the maps, prints, or other engravings belonging thereto, and whether the first edition of such book shall have been published before or after the passing of this Act, bound, sewed, or stitched together as offered for sale generally by the publisher thereof, and upon the best paper upon which the same shall be printed, shall, within six calendar months after the same shall first be sold, published, or offered for sale, be delivered on the part of the publisher at the library of the said University, and a receipt taken for the same from the Librarian, which receipt shall set forth the title and edition of such book at length, and upon demand, be given by such Librarian to the person depositing such copy at the said library; and on default of such delivery within the time aforesaid, the publisher of every such book, pamphlet, sheet of letter-press, sheet of music, map, chart, or plan, shall forfeit, besides the value of such copy which he ought to have delivered, a sum not exceeding five pounds, to be recovered by the Librarian, or other Officer or Agent of such Librarian, properly authorized for that purpose, for the use of the said University, to be applied for the augmentation of the said library, to be recovered in a summary way on conviction before any two Justices of the Peace for the District, County, City, or place where the publisher making default shall reside or be found, or in the name of the Chancellor, Masters and Scholars of the said University, in an action of debt or other proceeding of the like nature, in any Court of competent jurisdiction in this Province, in which action the said University, if they shall recover, shall recover the costs reasonably incurred, to be taxed as between Attorney and Client.

XXXII. And be it enacted, That all the property and effects, real and personal, of what nature or kind soever, now belonging to or vested in the said University, or in the Chancellor, President and Scholars thereof, or in any other person or persons, or Body Corporate or Politic whatsoever, for the use or benefit of the said University, shall be and continue vested in the Chancellor, Masters and Scholars of the University of Toronto, to hold to them and their successors, to the use of them and their successors

successors for ever, any thing in the said Charter of His said late Majesty, in any Act of the Parliament of the late Province of Upper Canada, or of this Province, or in any Letters Patent, Royal Charters, Deeds or other Instruments to the contrary thereof in any wise notwithstanding.

XXXIII. And be it enacted, That all debts due to the said University, or to the Chancellor, President and Scholars thereof, in their Corporate capacity, and all judgments, recognizances, bonds, covenants and other instruments or contracts suffered, acknowledged, or given to, or made with them as aforesaid, or with the Chancellor, President and Scholars thereof in their Corporate capacity, by whatsoever name the same may have been suffered, acknowledged, given, or made, shall be available, stand and continue of good purport, and full force and strength to the Chancellor, Masters and Scholars of the University of Toronto, as if the said University had been therein named by the Corporate name hereby given to the same; and it shall and may be lawful for the said University, by the Corporate name last aforesaid, to proceed upon the same by execution or otherwise, and recover thereon as if the same had been suffered, acknowledged, or given to, or made with them, by the name last aforesaid.

Corporation to have power to sue for debts due the University, &c.

XXXIV. And be it enacted, That the Chancellor, Masters and Scholars of the University of Toronto, shall, both in law and equity, be liable to all the present existing debts, contracts and agreements of the said University, and may be sued upon and recovered against for the same, as if the same had been contracted or entered into by them by the name aforesaid.

Corporation liable for all debts due by University.

XXXV. And be it enacted, that the Fiscal year of the said University shall commence on the first day of January, and end on the thirty-first day of December of each year.

Fiscal year to be the same as the Calendar year.

XXXVI. And be it enacted, That the Salaries of the different Professors, Lecturers, Teachers, Officers and Servants of the said University shall, by the Statutes establishing the same, be made payable quarterly, on the four quarter-days of such Fiscal year, that is to say, the first days of January, April, July, and October, in the same.

Salaries to be payable quarterly.

XXXVII. And be it enacted, That none of the real property of the said University, and none of the property thereof invested according to the directions of either the thirty-eighth or forty-second sections of this Act, shall be disposed of or applied otherwise than by authority of a Statute of the said University.

None of real property, &c., to be disposed of but by Statute.

XXXVIII. And be it enacted, That the proceeds arising from the sales of any of the lands referred to in the thirty-seventh section of this Act, which it shall from time to time be deemed expedient by the said University to sell and dispose of, and all moneys received upon investments called in, or paid off, together with any surplus of the income over the expenditure of the said University, as provided by the forty-second section of this Act, shall form a Fund, to be called in the Books of the said University "The University Investment Fund," the moneys at the credit of which Fund shall, from time to time, be invested in such Government or landed securities as shall be approved of by the Senate of the said University.

Proceeds of Sales of Lands, &c., to form an Investment Fund.

How to be invested.

XXXIX. And be it enacted, That the annual income of the said University, arising from the fees and dues payable to the same for Matriculation, Lectures, Tuition, Degrees,

Annual Income, &c., to
or

form Income Fund.

How to be appropriated and applied.

Order of charges upon the Income Fund,
First.

Second.

Third.

Fourth.

Fifth.

Sixth.

Deduction from salaries to meet deficiencies of income.

Provide: such deductions to be made up out of any surplus during the six following years.

Provide: beyond which no claim shall extend.

or otherwise, or from such portion thereof as by any Statute or Statutes of the said University, shall be payable into the General Funds of the said University, and not to the Professors or Officers thereof, and from the annual or other periodical rents, interests and dividends arising from the property and effects of the said University, of what nature or kind soever, whether real or personal, together with all such annual or other donations or subscriptions, as may be made to the said University for the general benefit thereof, without being specifically appointed by the Donor to any particular object or purpose, shall form another Fund, to be called "The University Income Fund," the moneys at the credit of which last mentioned Fund shall be appropriated and applied to make good and satisfy the several charges by the next following section of this Act charged and imposed upon the said Fund in the order in which such charges are therein charged and imposed upon the same.

XL. And be it enacted, That the first annual charge upon the said University Income Fund, shall be the necessary expenses incurred in the receipt, collection and management of the moneys of the said University, as well those constituting the Investment Fund, as those constituting the said Income Fund: the second charge upon such Income Fund shall be the necessary outlay for taxes, insurance and repairs of the buildings and other property of the said University: the third charge upon such Income Fund, shall be the salaries of the Bursar, Librarian, and other similar Officers, or those of the Lecturers and other Teachers, not being Professors, and the salaries, wages, and allowances of all Subordinate Officers and Servants of the said University: the fourth charge upon the said Fund shall be such sum of money as by any Statute or Statutes of the said University, to be passed for that purpose, shall be annually appropriated for the Incidental Expenses of the said University for the fiscal year, or so much of such sum as shall be required for such Incidental Expenses: the fifth charge upon such Fund shall be the salaries of the Vice-Chancellor, President and Professors of the said University, and so much of those of the Members of the Endowment Board of the said University and College as shall be payable out of the Funds of the said University; and the sixth and last charge, such special appropriations out of the said Income Fund for such year, as shall have been directed to be made by any Statute of the said University, passed for that purpose.

XLI. And be it enacted, That whenever the Income Fund of the said University for any year shall not be sufficient to satisfy and discharge the different charges upon the same for such year, as herein provided, the amount of the deficiency for such year shall be supplied from the surplus Income Fund which has not yet been carried to the Investment Fund, or shall be deducted in equal proportions from all the salaries constituting the fifth annual charge upon such Fund for the following year, by proportionate quarterly deductions from such salaries as the same become respectively payable at each financial quarter of such following year: Provided always nevertheless, firstly, that the parties whose receipts of salary may have been diminished by such proportionate deductions, as aforesaid, shall be entitled to have such deficiency made good in part or in the whole, as the case may be, out of any surplus, or surplusses of income over expenditure, that may accrue during the six years next ensuing that in which such proportionate deductions shall have been so made as aforesaid: Provided also, secondly, that for the deficiency thus occasioned in such salaries, and which, at the end of every sixth year, may yet remain unsatisfied as aforesaid, the Incumbents to whose Offices or Chairs such salaries shall be attached respectively, shall have no claim upon the said University or upon the Funds thereof, but the amount of such salaries received

received by each of such Incumbents according to the provisions of this Act, shall be deemed and taken to have been received by him in full satisfaction and discharge of the whole of his salary for such six years, for which such proportion of the same shall have been paid to him as aforesaid.

XLII. And be it enacted, That the surplus, if any, of the said University Income Fund, after satisfying and discharging the several charges, whether ordinary or extra, by this Act charged upon the same, shall be annually transferred to the Investment Fund of the said University, and with the other moneys belonging to that Fund shall be from time to time invested, as in and by the thirty-eighth section of this Act is declared, so that there shall be no balance of the said Income Fund to be carried forward from one fiscal year to the next.

Surplus of Income Fund to be transferred to the Investment Fund.

XLIII. And be it enacted, That so soon as any of the Incorporated Colleges, Collegiate Institutions or Universities in Upper Canada, having the power of conferring Degrees not only in the Faculty of Divinity, but the other Arts and Faculties also, shall have signified to the Governor, or person administering the Government of this Province for the time being, under their Corporate Seal, their desire to become entitled to appoint a Member to the Senate of the said University according to the provisions of this Act in that behalf, it shall and may be lawful for the Crown, by Letters Patent under the Great Seal of the Province, reciting such Instrument, to declare so much of the Charter of such College, Collegiate Institution, or University, whether the same shall be granted by Parliament or otherwise, as shall have been granted to, or vested in such College, Collegiate Institution or University the power of conferring such Degrees, (saving always nevertheless to such College, Collegiate Institution or University the power of conferring Degrees in the Faculty of Divinity), to be from the date of such Letters Patent, or from such other day as may be named therein for that purpose, repealed, abrogated and annulled, and thereupon from such day all such powers and privileges, with the saving aforesaid, shall be and the same are hereby declared to be absolutely repealed, abrogated and annulled accordingly, any thing in the several Charters of such Colleges, Collegiate Institutions or Universities, whether granted by the Parliament or otherwise, to the contrary thereof in any wise notwithstanding.

Upon surrender by any existing College having University powers, of all but the power of conferring Degrees in Divinity, it shall have the right to send a Member to the Senate.

Abrogation of powers surrendered.

XLIV. And be it enacted, That all Statutes, Rules and Ordinances of the said first mentioned University in force at the time of the passing of this Act, and which are not inconsistent with the provisions thereof, shall be and continue in force till repealed, altered or amended by some other Statute of the said University, either Visitation or Senatorial, to be hereafter enacted or passed for that purpose.

Present Statutes of the University to remain in force till altered or repealed.

XLV. And be it enacted, That nothing herein contained shall be deemed in any manner to affect any Degrees conferred or Terms kept, or studies or exercises performed in the said University, and the same shall be valid and effectual for all purposes whatsoever; and the same shall continue to be deemed Degrees conferred and Terms kept and studies and exercises performed in the said University as if this Act had not been passed.

Existing Degrees conferred or Terms kept confirmed.

XLVI. And be it enacted, That with the exception of the Professor of Divinity, every Professor, Lecturer and Officer of the said University now actually holding a Chair, or Office in the same, shall continue to hold his Chair, Place, or Office under a

Present Professors, except the Professor of Divinity, to

new

remain until removed.

Proviso: the Commission of Visitation may re-arrange the Chairs, &c.

Or to vary the salaries.

new Warrant to be issued to him for the same, until he shall be removed therefrom in the manner prescribed by this Act: Provided always, nevertheless, that nothing herein contained shall prevent or be construed to prevent the Commission of Visitation to be issued as hereinafter directed, or any other such Commission of Visitation, or any University Statute to be passed for that purpose from re-arranging such Chairs or the duties attached to the same respectively, or from adding to, varying or deducting from the duties of the Chair or Chairs held by any such Professor, Lecturer or Teacher in the said University, or from so altering or varying the amount of salary or emolument receiveable by any such Professor, Lecturer or Teacher, as shall be necessary to give effect to the provisions of this Act, for the prevention of the dissipation of the Endowment or Capital Stock of such University, and restricting its expenses and disbursements to the amount of its annual income from the same.

Recital.

Commission of Visitation to be issued to adapt Statutes to alterations in Charter.

Code reported and approved to be in force, &c.

XLVII. And whereas for the purpose of adapting the Statutes of the said University to the alterations hereby made in the Charter thereof, it is desirable that a Commission of Visitation should be issued to consider of and report upon the same: Be it therefore enacted, That so soon after the passing of this Act as to the Governor, or person administering the Government of the Province for the time being, shall seem expedient, a Commission of Visitation under the Great Seal shall be issued directed to not less than five Commissioners who shall be thereby directed to confer with the authorities of the said University upon the subject of such alterations and amendments in or to such Statutes, Rules or Ordinances as they shall think proper to recommend for this purpose, and generally for the well ordering of the said University, and thereupon to report a Code of proper Statutes, Rules and Ordinances for the government of the said University, which Code having been first approved by the Governor, or person administering the Government of the Province for the time being, shall be obeyed in future in the said University until by lawful authority the same shall or may be amended, altered or repealed.

Recital of the cases of certain Professors.

Commission of Visitation to consider cases of Professors who have been disappointed in expectations held out to them, &c.

XLVIII. And whereas certain of the Professors of the said University claim to have been induced to give up certain preferments or other pursuits or employments in which they were at the time engaged, and from which they were deriving their support, for the purpose of accepting certain of the Chairs in the said University under the expectation of such appointments being permanent, and with the assurance that the emoluments thereof would at least be equal to certain specified amounts respectively, and it is therefore expedient that the cases of such persons and of others who can advance just claims to compensation for services performed to the said University, should be specially enquired into and reported upon, with a view to ascertaining the merits of their respective cases, and how far if their claims be found just, some reasonable satisfaction may be afforded them for such losses as they may have sustained or may sustain from such expectations and assurances not having been realized: Be it therefore enacted, That the said Commissioners shall be directed by such Commission of Visitation to enquire into the case of any such person, upon the same being specially referred to them by the Governor, or person administering the Government of the Province for the time being, through the Provincial Secretary thereof, and if upon any such reference they shall find any such person reasonably entitled to any such satisfaction, they shall report the same, and if they shall deem proper shall report one or more Statutes, Rules or Ordinances for providing for such satisfaction if they shall find the Funds of the said University adequate to bear the same.

XLIX. And be it enacted, That the said Commissioners shall be further directed by the said Commission of Visitation to consider and report upon the best means of making the Chair of Agriculture recently established in the said University, more efficient and useful; and to consider and report generally upon the best means of making the said University, as far as its funds will permit, the instrument of drawing forth and stimulating the talent of the youth of Upper Canada, by the establishment of Fellowships, Scholarships, Exhibitions, Prizes and other Rewards, and by such other means as in their judgment may be best adapted to such end.

Commission of Visitation to report upon the Chair of Agriculture. And the establishment of Fellowships, &c.

L. And whereas it is expedient to stimulate the youth of the Province to avail themselves of the benefit of a University Education, by the establishment of a certain number of Scholarships in the said University, for each County of Upper Canada, for the purpose of assisting (as far as possible) with pecuniary aid, those of the deserving Youth of each County, whose parents may be unable to meet the expense necessarily attendant upon such an education: Be it therefore enacted, That it shall be the duty of the said Commissioners, in the Code of Statutes so to be reported by them as aforesaid, to provide for the establishment of four Scholarships for each County in Upper Canada, so soon as the funds of the said University shall permit, and to regulate every thing appertaining to the election, rights, privileges and emoluments of such Scholars to be elected to the same: Provided always nevertheless, firstly, that the Scholars elected to fill such Scholarships shall be entitled to attend all Classes and Lectures in the said University, and enjoy all the advantages afforded therein without payment of any fee for the same: And that two of the four Scholarships so to be founded for each County, shall be endowed from the University Funds with such an annual stipend as in the estimation of the said Commissioners the said Funds may permit: Provided also, secondly, that no County shall be entitled to claim the benefit of the Scholarships to be so founded, or any of them, unless the Municipal Council of such County shall have provided, permanently, sufficient funds for the endowment of one or both the Scholarships to be so founded, but not endowed from University Funds, according to the rate fixed by such Commissioners: And upon such provision being made by the Municipal Council of any County, the Senate of the said University shall proceed to fill up either one or both the said Scholarships according to the sum provided by the said Municipal Council, and shall, at the same time, according to circumstances, fill up either one or both the Scholarships to be endowed from University Funds; it being the intention of this Act, that the Scholarships to be endowed from University Funds shall only be filled up so far and so long as the several Counties respectively shall provide Funds for the support of those to be endowed from those sources. Provided also, thirdly, that the said Scholarships shall be filled up by the Senate of the said University upon public examination to be held before that Body by Examiners to be by them appointed, and the selection shall be made out of such a number of the Youth of each County as shall have been admitted to contend for such Scholarships by the Certificate of the Municipal Council of such County: Provided also, fourthly, that no person shall be admitted as a Candidate for such Scholarships unless he shall have received a Certificate of birth or residence from the Municipal Council of the County to which such Scholarships shall belong, as aforesaid. And provided also, fifthly, that no person shall be deemed one of the Youth of any given County within the meaning of this section unless he shall have been born in such County, or unless his parents or surviving parent, or one of them, shall have been a stated resident of such County for five years continually prior to the granting of such Certificate, and shall, at the time of

Recital.

Commissioners to be directed to provide for Scholarships, &c.

Proviso: Scholars to attend classes gratis, and some to have stipends.

Proviso: conditions on which a County shall have the benefit of Scholarships.

Proviso: Scholarships to be filled upon Public Examination.

Certificate of Birth or Residence required.

Who to be deemed the Youth of a given County: Certificate to be required.

granting

Proviso: duration of Certificate.

Proviso: for conservation of present Scholarships.

granting such Certificate, be still stated residents, or a stated resident thereof, or if they be both dead, then, unless they or the survivor of them shall have been such stated resident for the five years next preceding and at the time of their death or the death of the survivor of them. Provided also, sixthly, that every such Certificate shall remain in force for one year from the granting thereof, and no longer, after which it shall and may be renewed if the party remains entitled to it as at the first: And provided also seventhly and lastly, that it shall and may be lawful for such Commissioners, and they are hereby required to make provision for preserving all Scholarships now existing in the said University on their present footing for the space of five years next after the passing of this Act for the benefit of such persons as have already commenced a course of study with a view to compete for the same, or have obtained any such Scholarships.

III. UPPER CANADA COLLEGE AND ROYAL GRAMMAR SCHOOL.

Upper Canada College and Royal Grammar School to remain an Appendage of University, under a separate organization--and incorporated. Corporate name and powers.

LI. And whereas by the said Act passed in the seventh year of the Reign of His late Majesty King William the Fourth, it was amongst other things enacted, That the College then lately erected in the City of Toronto, should be incorporated with, and form an appendage of the said University; And whereas it is expedient, while maintaining the said College as an appendage of the said University, to confer upon it a more independent organization for the regulation of its own affairs, than it at present possesses: Be it enacted, That the Principal, Masters and Scholars of the said College, for the time being, shall henceforth, by and under the name of "The Principal, Masters and Scholars of Upper Canada College, and Royal Grammar School," be a Body Corporate and Politic in fact and in name, and shall have perpetual succession and a Common Seal, with power to change, alter or make anew the same; and shall and may, by the name aforesaid, contract and be contracted with, sue and be sued, implead and be impleaded, answer and be answered unto, in all Courts and places whatsoever; and that they, and their Successors, by and under the name aforesaid, shall be able and capable in law of purchasing, acquiring, taking, having, holding and enjoying by gift, grant, conveyance, devise, bequest or otherwise, to them and their Successors, any estate or property, real or personal, to and for the use of the said College and Royal Grammar School, or to, for or in trust for any other use or purpose whatsoever in any way connected with the advancement of Education, and of letting, conveying or otherwise disposing thereof, from time to time, as they may deem necessary or expedient.

Governor to be Visitor, &c.

Power to be exercised by Commission.

LII. And be it enacted, That the Governor, or person administering the Government of this Province for the time being, shall be the Visitor of the said College and Royal Grammar School, on behalf of Her Majesty, Her Heirs and Successors, which Visitatorial Power shall and may be exercised by Commission under the Great Seal of this Province, the proceedings whereof, having been first confirmed by the Governor, or person administering the Government of this Province in Council, shall be binding upon the said College and Royal Grammar School, and all others whomsoever.

Principal to be appointed by Crown on recommendation of Senate of University.

Proviso: to be a subject of Her Majesty

LIII. And be it enacted, That there shall be in the said College and Royal Grammar School a Principal, who shall be appointed by the Crown upon the Report or Resolutions of the Senate of the said University, made upon the proceedings and in the manner hereinbefore provided for in respect of the appointment to Chairs in the said University: Provided always nevertheless, firstly, that the person so to be appointed Principal shall be a natural born or naturalized subject of Her Majesty, and shall not

at the time of his appointment, or while he shall continue Principal thereof, hold any office, place or appointment in any other University, College, Seminary, School, or place of Learning or Education in this Province, or elsewhere: And provided also, secondly, that such Principal shall, during the time that he shall hold such office, reside within the said College and Royal Grammar School, or if permitted so to do by any Statute of the said College and Royal Grammar School to be passed for that purpose, then in such other place as may be prescribed by such Collegiate Statute; And provided also, thirdly, and lastly, that during the vacancy of the office of Principal of the said College or Royal Grammar School, such temporary provision shall and may be made by the Council of the said College and Royal Grammar School for the performance in the best manner in their power of the duties attached to such office, as shall or may be directed or appointed by any College Statute to be passed for that purpose.

and not hold any other educational appointment.

Proviso as to Residence in College, &c.

Proviso as to performance of duties during any vacancy.

LIV. And be it enacted, That the Ordinary General Discipline and Government of the said College and Royal Grammar School, in subordination to the Council thereof, shall be vested in and exercised by the Principal thereof: Provided always nevertheless, firstly, that in all matters directly affecting any of the Masters of the said College and Royal Grammar School, or involving the expulsion of any Member from the same, an appeal shall lie from the decision of the said Principal to the Council of the said College; And provided always also, secondly, that the mode and manner of exercising the powers hereby vested in the said Principal shall and may, from time to time, be regulated and directed by Statutes of the said College and Royal Grammar School to be passed for that purpose.

Ordinary general discipline, &c., in whom vested.

Proviso: Appeal to Council in certain cases.

Proviso: exercise of their powers may be regulated by Statute.

LV. And be it enacted, That it shall be the duty of the Principal of the said College and Royal Grammar School to make an Annual General Report to the Council thereof on the general state, condition, progress and prospects of the said College, and all things touching the same, and to make such suggestions as he may think proper for the improvement of the same; a duplicate of which said report the said Principal shall transmit to the Governor, or person administering the Government of this Province for the time being, through the Provincial Secretary thereof.

Principal to report annually to College Council and transmit duplicate to the Governor.

LVI. And be it enacted, That there shall be in the said College and Royal Grammar School a Deliberative Body to be called the College Council thereof, which shall consist of the Principal of the said College and Royal Grammar School for the time being when such office shall not be vacant, and four other persons to be appointed by the Crown during pleasure, of which Council any three Members shall be a *Quorum* for the despatch of business: Provided always nevertheless, firstly, that no person shall be qualified to be appointed by the Crown to such seat in the said Council who shall be a Minister, Ecclesiastic or Teacher under or according to any form or profession of religious faith or worship whatsoever; And provided also, secondly, that no person shall be qualified to be so appointed who shall not have taken the Degree of Master of Arts in the said University of Toronto, at least five years prior to the time of his appointment to such seat: And provided also, thirdly, and lastly, that the restriction contained in the said last foregoing Proviso to this Section shall not apply to any appointment to be made to such Council prior to the year of Our Lord one thousand eight hundred and sixty.

College Council how constituted.

Quorum.

Proviso: Crown Members not to be Ecclesiastics.

Proviso: Qualification of Crown Members.

Proviso: last Proviso not to take effect till 1860.

Who shall call and preside at such meetings of the Council.

LVII. And be it enacted, That the Principal of the College shall have the power of calling special meetings of the said Council, and shall preside at all meetings of the said Council at which he shall be present, and that in his absence the Senior Member of the said Council present shall preside in his place.

Council to make College Statutes, &c. for certain purposes. Good Government of Colleges, &c.

Meeting of Council. Duties of Principal, &c.

Officers and Servants.

Salaries, fees, &c.

Altering Statutes.

Proviso: Statutes not to be repugnant to law.

Proviso: Not to be passed and proposed at the same Meeting.

Proviso: to be approved by Caput of University.

Proviso: Crown may disallow any Statute within two years.

Endowment Board to have charge of property of College.

Proviso: To give all information required by Governor, Principal of College, &c.

LVIII. And be it enacted, That the Council of the said College and Royal Grammar School shall have full power and authority to frame and make such Statutes, Rules and Ordinances as they may think necessary or expedient touching or concerning the good government of the said College and Royal Grammar School, or touching or concerning the different Masterships and Teacherships in or belonging to the same including that of the Principal; the studies, examinations and exercises to be pursued, had or held therein, and all matters touching the same; and for summoning and holding regular or special meetings of the said Council, and all matters relative to the same; the duties of the Principal, and the residence and duties of the Principal, Masters, and Teachers of the said College and Royal Grammar School; the number of exhibitions and other prizes of and in the said College and Royal Grammar School, and all matters relative to the creation of, examination for, and conferring of the same; the number, residence, appointment and duties of all the Officers and Servants of the said College and Royal Grammar School; the management of the property and revenue thereof; the salaries, stipends, provision, fees and emoluments of and for the Principal, Masters, Teachers, Officers and Servants of the said College and Royal Grammar School, and generally concerning any other matter or thing for the well being and advancement of the said College and Royal Grammar School; and also, from time to time, to revoke, renew, augment or alter all, every, or any of the said Statutes, Rules and Ordinances as to them shall seem meet or expedient. Provided always nevertheless, firstly, that such Statutes, Rules or Ordinances, or any of them, shall not be repugnant to the laws or Statutes of this Province: Provided also, secondly, that no such Statute, Rule or Ordinance shall be passed and adopted at the same meeting at which it is first introduced and considered, but that a second meeting of the said Council shall be specially convened for the passing and adopting any such Statute, Rule or Ordinance: And provided also, thirdly, that no such Statute, Rule or Ordinance shall have any force or effect until it shall have been approved by the Caput of the said University: And provided always, also, fourthly, and lastly, that it shall and may be lawful for the Crown, at any time within two years from the passing of any such Statute, Rule or Ordinance, by Letters Patent under the Great Seal of this Province, to disallow such Statute, Rule or Ordinance, and thereupon every such Statute or Ordinance shall, from the date of such Letters Patent, stand repealed, and be of no force or effect whatsoever.

LIX. And be it enacted, That it shall be the duty of the Endowment Board of the said University and College to take upon themselves the general charge, superintendence and management of the whole property and effects, real and personal, of the said College and Royal Grammar School, under the direction of such College Statutes as shall or may be passed for that purpose: Provided always, nevertheless, firstly, that such Endowment Board shall, from time to time, and at all times, as the same may be required, afford to the Governor, or person administering the Government of this Province for the time being, and also to the Principal and Council of the said College or to such Committee or Committees of such Council as they may appoint for that purpose, all such information respecting such property and effects, and the whole fiscal

or financial affairs of the said College and Royal Grammar School, as the said Governor, or person administering the Government of the Province, or the said Principal or Council, or any such Committee or Committees of such Council shall or may from time to time require: And provided also, secondly, that they shall in like manner afford the like information to the Auditors to be appointed annually for auditing the Accounts of the said College and Royal Grammar School: And provided also, thirdly, and lastly, that it shall moreover be the duty of such Board annually to make a full report of the state of the property and effects under their charge, superintendence and management, and of the whole fiscal or financial affairs of the said College, to the Council of the said College and Royal Grammar School, and at the same time to transmit a duplicate of such report to the Governor or person administering the government of this Province, through the Provincial Secretary thereof.

Proviso: The like to Auditors.
To make annual report to the Council and transmit duplicate to the Governor.

LX. And be it enacted, That there shall be two Auditors of Accounts of the said College and Royal Grammar School, to be appointed annually, one by the Principal of the said College, and the other by the College Council thereof, whose duty it shall be to examine and audit the Accounts of the said Endowment Board, as far as they regard the property and effects of the said College and Royal Grammar School, and all other Accounts of the said College and Royal Grammar School generally, and to make a Report upon the same to the Council of the said College, a duplicate of which Report such Auditors shall transmit to the Governor, or person administering the Government of the Province for the time being, through the Provincial Secretary thereof.

Two Auditors to be appointed to report to College Council and transmit duplicate to Governor.

LXI. And be it enacted, That the Masters of the said College and Royal Grammar School shall be appointed by the Crown.

Masters to be appointed by Crown.

LXII. And be it enacted, That it shall and may be lawful for the Senate of the said University of Toronto, upon the report of the Caput thereof, or upon that of a Committee of its own Members, to suspend the Principal of the said College and Royal Grammar School, or any of the Masters thereof from his office, for any just and reasonable cause to them appearing; Provided always nevertheless, firstly, that the grounds of every such suspension shall be entered and recorded at length on the Books of the said Senate, and such Principal or Master so suspended shall thereupon cease from the performance of his duties, and from the exercise of his rights, functions and privileges, until and unless such suspension shall be removed by the Visitor of the said College and Royal Grammar School under his Privy Seal: And provided also, secondly, that a copy, duly authenticated, of the entry and record of such suspension and the grounds thereof, be forthwith transmitted to the said Visitor through the Provincial Secretary; And provided also, thirdly, that the continuation of any such suspension for a period of three calendar months continually, without any appeal by such Principal or Master to the said Visitor, against such decision of the said Senate, shall *ipso facto* vacate such Principalship or Mastership as if the party so suspended were naturally dead; And provided also, fourthly, that during every such suspension, such temporary provision shall and may be made by the Council of the said College and Royal Grammar School for the performance, in the best manner within their power, of the duties of such Principalship or Mastership, as is hereinbefore provided with respect to those of a vacant Chair in the said University.

Senate of University may suspend Principal or Masters.

Proviso: Grounds to be entered on Books of Senate.

Proviso: copy of entry, &c. to be transmitted to the Visitor.

Proviso: suspension for three months without appeal to vacate.

Proviso: temporary provision to be made for performance of duties.

Governor may remove Principal and Masters, on report of Senate of University.

LXIII. And be it enacted, That if upon the report of the Caput, or upon that of a Committee of their own Members, the Senate of the said University, after affording the party all reasonable opportunity of being heard in his defence, shall report to the Governor or person administering the Government of this Province for the time being, through the Provincial Secretary thereof, their opinion that the Principal of the said College and Royal Grammar School, or any of the Masters thereof, ought to be removed from his office, and shall in such report set forth at length, the grounds and reasons for such opinion, it shall and may be lawful for the Governor, or person administering the Government for the time being, if he shall deem it just and proper so to do, by an Instrument under his Privy Seal, to remove such Principal or Master from his said office, and thereafter such office shall be dealt with as if it had become vacant by the death of such Principal or Master.

No Religious Test to be required.

LXIV. And be it enacted, That no religious test or qualification whatsoever shall be required of or appointed for any person admitted as a Member of such College and Royal Grammar School, whether as a Scholar, Student, Fellow, or otherwise, or of or for any person appointed to any office, Mastership, Teachership, or other place or employment whatever in the same; nor shall religious observances, according to the forms of any particular religious denomination, be imposed upon the Members or Officers of the said College and Royal Grammar School, or any of them.

Nor Religious observances imposed.

College not to borrow money except under a Statute, nor without providing a Sinking Fund to pay the debt off in twenty years.

LXV. And be it enacted, That it shall not be lawful for the Principal, Masters and Scholars of the said College and Royal Grammar School, or for the Endowment Board of the said University and College on their behalf, to borrow any money on the security of the said College and Royal Grammar School, or of the Funds or other property thereof, or otherwise howsoever, except under the authority of a Statute of the said College and Royal Grammar School, by which Statute there shall at the same time be appropriated such an amount of the annual income of the said College and Royal Grammar School, arising from the interest and dividends of money actually invested under the authority of the seventy-second Section of this Act, as shall be sufficient to meet the annual interest upon such loan, and in addition thereto, a sufficient sum per centum per annum upon the original principal of such loan, to constitute a Sinking Fund for the final redemption, satisfaction and discharge of the said original principal of such loan, within at least twenty years from the time of the contracting of the same, and the annual interest of such loan; and the annual appropriation for such Sinking Fund for the redemption and satisfaction thereof, shall constitute an extra charge upon the Income Fund of the said College and Royal Grammar School, as hereinafter established, which, so long as any part of the said original principal of such loan shall remain unpaid, shall take precedence of the fourth, fifth and sixth ordinary annual charges upon such Income Fund as the same are respectively charged and imposed upon the same by the seventy-fourth section of this Act, and until such payment and satisfaction of the whole principal and interest of such loan, any Collegiate Statute, either Visitatorial or Collegiate, whereby such provision shall or may be attempted to be repealed or altered, shall be null and void to all intents and purposes whatsoever.

Appropriation for Sinking Fund to be a charge on College property.

Statute not to be repealed until the Loan is paid off.

Property of the College vested in the Corporation.

LXVI. And be it enacted, That whatever shall remain of the original endowment of the said College and Royal Grammar School, whether the legal Titles thereto be now vested in the said College and Royal Grammar School or in the Principal Master and Scholars thereof, or in the said College, Collegiate Institution or University and all

all other the property and effects, real and personal, of what nature or kind soever, now belonging to or vested in the said College and Royal Grammar School, or in the Principal, Masters and Scholars thereof, or in the said College, Collegiate Institution or University, or in any other person or persons, or Body Corporate or Politic whatsoever, for the use or benefit of the said College and Royal Grammar School, shall be, and the same and every part thereof are hereby transferred to and vested in the Principal, Masters, and Scholars of Upper Canada College and Royal Grammar School, to hold to them and their Successors for ever; any thing in the said Act of the Parliament of the late Province of Upper Canada or of this Province, or in any Letters Patent, Royal Charters, Deeds, or other Instruments to the contrary thereof in any wise notwithstanding.

LXVII. And be it enacted, That all debts due to the said College and Royal Grammar School or to the Principal, Masters and Scholars thereof, in their Corporate Capacity, and all Judgments, Recognizances, Bonds, Covenants and other Instruments or Contracts suffered, acknowledged or given to or made with them as aforesaid, or with the said College, Collegiate Institution or University hereinbefore mentioned on behalf of the said College and Royal Grammar School or with the Chancellor, President and Scholars of the said University on behalf of the said College and Royal Grammar School, by whatever name the same may have been suffered, acknowledged, given or made, shall be available, stand and continue of good purport and full force and strength to the Principal, Masters and Scholars of Upper Canada College and Royal Grammar School, as if the said College and Royal Grammar School had been therein named by the Corporate Name hereby given to the same; and it shall and may be lawful for the said College and Royal Grammar School, by the Corporate Name last aforesaid, to proceed upon the same by execution or otherwise, and recover thereon as if the same had been suffered, acknowledged or given to or made with them by the name last aforesaid.

Debts due to the College vested in the Corporation:

And may be recovered by it.

LXVIII. And be it enacted, That except as hereinafter excepted, the Principal, Masters and Scholars of Upper Canada College and Royal Grammar School shall both in Law and Equity be liable to all the present existing debts, contracts and agreements of the said College and Royal Grammar School, and may be sued upon and recovered against for the same, as if the same had been contracted or entered into by them by the name aforesaid: Provided always, nevertheless, that nothing herein contained shall extend or be construed to extend to the debt now claimed to be due by the said College and Royal Grammar School to the said University, which debt shall be and the same is hereby absolutely cancelled and discharged.

Corporation liable for all debts due by the College.

Proviso: Debt to University cancelled.

LXIX. And be it enacted, That the fiscal year of the said College and Royal Grammar School shall commence on the first day of January and end on the thirty-first day of December in each year.

Fiscal year to correspond with Calendar year.

LXX. And be it enacted, That the Salaries of the Principal, Masters, Teachers, Officers and Servants of the said College and Royal Grammar School shall, by the Statutes establishing the same, be made payable Quarterly on the four Quarter days of each fiscal year, that is to say, the first days of January, April, July and October in the same.

Salaries to be payable quarterly.

LXXI. And be it enacted, That none of the real property of the said College and Royal Grammar School, and none of the property thereof invested according to the directions

No real property, &c., to be disposed of

except by
Statute.

directions of either the seventy-second or seventh-sixth Sections of this Act, shall be disposed of or applied otherwise than by authority of a Statute of the said College and Royal Grammar School.

Proceeds of
Sales of Lands
to form Invest-
ment Fund.

LXXII. And be it enacted, That the proceeds arising from the sales of any of the lands referred to in the seventy-first section of this Act which it shall from time to time be deemed expedient by the said College and Royal Grammar School to sell and dispose of, and all moneys received upon investments called in or paid off, together with any surplus of the income over the expenditure of the said College and Royal Grammar School, as provided by the seventy-sixth Section of this Act, shall form a Fund to be called in the Books of the said College and Royal Grammar School "The College Investment Fund," the moneys at the credit of which Fund shall from time to time be invested in such Government or Landed Securities as shall be approved of by the Council of the said College and Royal Grammar School.

How to be
invested.

Annual In-
come to form
the "Income
Fund."

LXXIII. And be it enacted, That the annual income of the said College and Royal Grammar School arising from the fees and dues payable to the same for entrance, tuition, or otherwise, or from such portion thereof as by any Statute or Statutes of the said College and Royal Grammar School shall be payable into the General Funds of the said College and Royal Grammar School, and not to the Principal, Masters or Officers thereof, and from the annual or other periodical rents, interests and dividends arising from the property and effects of the said College and Royal Grammar School, of what nature or kind soever, whether real or personal, together with all such annual or other donations or subscriptions as may be made to the said College and Royal Grammar School, for the general benefit thereof without being specially appointed by the Donor to any particular object or purpose, shall form another Fund to be called "The College Income Fund," the moneys at the credit of which last mentioned Fund shall be appropriated and applied to make good and satisfy the several charges by the next following Section of this Act charged and imposed upon the said Fund in the order in which such charges are therein charged and imposed upon the same.

Application of
such Fund.

What shall be
charges on In-
come Fund,
and their order.

First.

Second.

Third.

Fourth.

Fifth.

Sixth.

LXXIV. And be it enacted, That the first annual charge upon the said College Income Fund shall be the necessary expenses incurred in the receipt, collection and management of the moneys of the said College and Royal Grammar School, as well those constituting the Investment Fund as those constituting the said Income Fund. The second charge upon such Income Fund shall be the necessary outlay for taxes, insurance and repairs of the buildings and other property of the said College and Royal Grammar School. The third charge upon such Income Fund shall be the salaries, wages and allowances of all Subordinate Officers and Servants of the said College and Royal Grammar School. The fourth charge upon the said Fund shall be such sum of money as by any Statute or Statutes of the said College and Royal Grammar School, to be passed for that purpose, shall be annually appropriated for the incidental expenses of the said College and Royal Grammar School for the fiscal year, or so much of such sum as shall be required for such incidental expenses. The fifth charge against such Fund shall be the salaries of the Principal and Masters of the said College and Royal Grammar School, and so much of those of the Members of the Endowment Board of the said University and College as shall be payable out of the Funds of the said College. And the sixth and last charge, such special appropriations out of the said Income Fund for such year as shall have been directed to be made by any Statute of the said College and Royal Grammar School passed for that purpose.

LXXV.

LXXV. And be it enacted, That whenever the Income Fund of the said College and Royal Grammar School, for any year, shall not be sufficient to satisfy and discharge the different charges upon the same for such year as herein provided, the amount of the deficiency for such year shall be supplied from the surplus Income Fund which has not yet been carried to the Investment Fund or shall be deducted in equal proportions from all the salaries constituting the fifth annual charge upon such fund for the following year, by proportionate quarterly deductions from such salaries, as the same become respectively payable at each financial quarter of such following year: Provided always nevertheless, firstly, that the parties whose receipts of salary may have been diminished by such proportionate deductions as aforesaid, shall be entitled to have such deficiency made good in part, or in the whole, as the case may be, out of any surplus, or surplusses of income over expenditure that may accrue during the six years next ensuing that in which such proportionate deductions shall have been so made as aforesaid: Provided also, secondly, that for the deficiency thus occasioned in such salaries, and which at the end of every sixth year may yet remain unsatisfied, as aforesaid, the incumbents to whose Offices or Masterships such salaries shall be attached respectively shall have no claim upon the said College and Royal Grammar School or upon the Funds thereof, but the amount of such salaries received by each of such incumbents, according to the provisions of this Act, shall be deemed and taken to have been received by him in full satisfaction and discharge of the whole of his salary for such six years, for which such proportion of the same shall have been paid to him as aforesaid.

Deduction from salaries to meet deficiencies in the Income Fund.

Proviso: deficiency to be made up by surplus accruing during six following years.

Proviso: Beyond which no claim shall be allowed.

LXXVI. And be it enacted, That the surplus, if any, of the said College Income Fund, after satisfying and discharging the several charges, whether ordinary or extra, by this Act charged upon the same, shall be annually transferred to the Investment Fund of the said College and Royal Grammar School, and with the other moneys belonging to that Fund be from time to time invested as in and by the seventy-second Section of this Act is declared, so that there shall be no balance of the said Income Fund to be carried forward from one fiscal year to the next.

Surplus if any of Income Fund to be transferred to Investment Fund.

LXXVII. And be it enacted, That all Statutes, Rules and Ordinances of the said College and Royal Grammar School in force at the time of the passing of this Act, and which are not inconsistent with the provisions thereof, shall be and continue in force, until repealed, altered or amended by some other Statute of the said College and Royal Grammar School, either Visitatorial or Collegiate, to be hereafter enacted or passed for that purpose.

Present Statutes of College to remain till altered.

LXXVIII. And be it enacted, That the Principal and other Masters and Officers of the said College and Royal Grammar School now actually holding a Mastership, or Office in the same, shall continue to hold such Mastership or Office under a new Warrant to be issued to him for the same, until he shall be removed therefrom in the manner prescribed by this Act; Provided always nevertheless, that nothing herein contained shall prevent or be construed to prevent the Commission of Visitation to be issued as hereinafter directed, or any other such Commission of Visitation, or any Collegiate Statute to be passed for that purpose, from re-arranging such Masterships or Offices, or the duties attached to the same respectively, or from adding to, varying or deducting from the duties of the Mastership, or Office held by any such Master or Officer in the said College or Royal Grammar School, or from so altering or varying the amount of salary or emolument receivable by any such Master or Officer as shall be necessary to

Present Principal and Masters to continue until removed.

Proviso: Commission of Visitation may re-arrange the Officers or duties.

Or the salaries, &c.

give

give effect to the provisions of this Act for the prevention of the dissipation of the endowment or capital stock of such College and Royal Grammar School, and restricting its expenses and disbursements to the amount of its annual income from the same.

Commission of Visitation to issue for like purposes with Commission for University.

LXXIX. And be it enacted, That so soon after the passing of this Act as to the Governor, or person administering the Government of the Province for the time being, shall seem expedient, a like Commission of Visitation shall be issued to and in respect of the said College and Royal Grammar School as that hereinbefore directed to be issued to and in respect of the said University, with similar powers and directions as far as the Governor, or person administering the Government of the Province for the time being, shall deem the same applicable or expedient to be contained in such Commission; Provided always nevertheless, that nothing herein contained shall prevent or be construed to prevent the issue of one Commission embracing both objects, if such shall be the pleasure of the Governor, or person administering the Government of the Province for the time being, as aforesaid.

Proviso: one Commission may include both.

IV. MISCELLANEOUS AND TEMPORARY PROVISIONS.

Actions at Law and Suits in Equity by or against University, College, &c., not to abate.

LXXX. And be it enacted, That no action at law or suit in equity now pending between either the said first mentioned University and any person or persons, Bodies Corporate or Politic, or between the said College and Royal Grammar School, and any such person or persons, Bodies Corporate or Politic, by whatsoever name such University or College may be proceeding, or be proceeded against in such action or suit, shall abate, cease or be discontinued by reason of any thing in this Act contained, but every such action or suit shall and may, upon suggestion of the passing hereof, be proceeded with for or against such University or College by the Corporate name hereby conferred upon the same respectively; any thing herein contained to the contrary notwithstanding.

Recital.

LXXXI. And whereas a gift of Books, principally consisting of Theological Works, was some years since made to the said University hereinbefore first mentioned by the Society for Promoting Christian Knowledge, which in consequence of the abolition of the Chair of Divinity, that Society may desire to have transferred to some other Institution or otherwise disposed of: Be it therefore enacted, That upon application from the said Society by their proper Officer, to be made to the said Chancellor, Masters and Scholars of the said University of Toronto, at any time before the year of our Lord, one thousand eight hundred and fifty-five, requesting that such gift may be returned to them or otherwise disposed of as they may appoint, it shall and may be lawful for the said Chancellor, Masters and Scholars, and they are hereby required to deliver over the same according to such request, and the same shall thereupon become vested in the said Society, or in such other person or persons, Bodies Politic or Corporate as the said Society shall or may in and by such request so to be made as aforesaid nominate and appoint in that behalf; any thing herein contained to the contrary notwithstanding.

Theological Library to be transferred at request of Society for promotion of Christian Knowledge.

Commencement of this Act.

LXXXII. And be it enacted, That this Act shall come into operation upon, from and after the first day of January next, or such earlier day as shall or may be fixed for that purpose by Proclamation under the Great Seal of this Province.

LXXXIII.

LXXXIII. And be it enacted, That this Act shall be deemed and taken to be a Public Act, and shall be judicially taken notice of as such by all Judges, Justices and others whomsoever without being specially pleaded. Act to be a public Act, &c.

LXXXIV. And be it enacted, That this Act may be amended, altered or repealed by any Act to be passed in this present Session of Parliament. Act may be amended, &c., this Session.

CAP. LXXXIII.

An Act for the better establishment and maintenance of Public Schools in Upper Canada, and for repealing the present School Act.

[30th May, 1849.]

WHEREAS it is expedient to make provision for the better establishment and maintenance of Public Schools, in that part of this Province formerly Upper Canada: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the Governor of this Province may from time to time appoint by Letters Patent under the Great Seal of this Province, a fit and proper person to be Superintendent of Schools for Upper Canada, and to hold his office during pleasure; and the said Superintendent shall be allowed Four hundred and twenty pounds currency salary per annum, and shall be allowed Three hundred and fifteen pounds currency per annum for a clerk and the contingent expenses of his office, to be by him accounted for according to the terms of this Act; and the said Superintendent shall give security to Her Majesty, to the satisfaction of the Governor in Council, in the sum of Two thousand pounds currency, and shall in the exercise of his duty be subject to all lawful directions or orders that the Governor or person administering the Government of this Province may by and with the advice of the Executive Council give in respect thereto. Preamble.

II. And be it enacted, That it shall be the duty of the Superintendent of Schools for Upper Canada: Superintendent of Schools to be appointed for Upper Canada—his salary, &c.

First. After deducting certain sums, as hereinafter provided, to apportion, on or before the fifteenth day of April in each year, all moneys appropriated by the Legislature for Common Schools in Upper Canada, for the then current year, according to the ratio of population in each County in Upper Canada, as compared with the whole population of such part of this Province according to the census of the population thereof, which shall have been last taken and returned at the time of such apportionment; or, if the census or returns upon which such apportionment, according to this provision of this Act, ought to be made, be so defective in respect to any County that it will be impracticable to ascertain thereby the share of the School moneys which ought to be apportioned to the said County, then he shall apportion To give security, and be subject to the Governor in Council.

apportion such moneys according to the best evidence in his power, having respect to a fair and equitable apportionment thereof according to the said ratio of population.

Certifying apportionments, &c.

Secondly. To certify to the Inspector General of this Province the apportionment so made, and to give also immediate notice thereof to the Clerk of the Municipal Council of each County in Upper Canada, stating the amount of money apportioned to each, the aggregate amount of the apportionments, and the ratio of population according to which the several apportionments shall have been made.

Seeing to application of moneys.

Thirdly. To see that all moneys apportioned by him, under the authority of this Act, be applied to the purposes for which they shall have been granted, and to withhold from each and every County from which a satisfactory report respecting the moneys last apportioned thereto shall not have been received, all further share of the Legislative Grant for Schools till such report shall have been furnished by the said County.

Preparing forms, regulations, &c.

Fourthly. To prepare suitable forms and regulations for making all reports, and conducting all necessary proceedings under this Act, and to cause the same, with such instructions as the Board of Education for Upper Canada shall deem necessary for the better organization and Government of Public or Common Schools, to be transmitted to the several Boards and Officers required to execute the provisions of this Act; and to prepare and to transmit to the Clerk of each Township, Town or City in Upper Canada, for the use of the Municipal Council of such Township, Town or City, a copy of any plan or plans of School Houses that the Governor in Council may approve of and order to be furnished for such purpose.

Also copies of plans for School Houses.

Furnishing forms, copies of Act, &c.

Fifthly. To furnish, from time to time, to the order of any Superintendent of the Common Schools of any Township, Town or City in Upper Canada, such and so many copies of this Act, and of the forms, regulations and instructions prepared by him, as shall in such order be stated to be necessary for the use of any School or Schools in the said Township, Town or City.

Collecting information respecting education.

Sixthly. To employ all lawful means in his power to collect information on the subject of education, and to diffuse it among the people in Upper Canada.

Reporting yearly to the Governor.

Seventhly. To submit annually to the Governor of this Province, on or before the first day of August in each year, a report of the state of the Normal, Grammar, Common and other Public Schools or Educational Institutions in Upper Canada, shewing the amount of public moneys expended for educational purposes in Upper Canada, so far as the same shall have been made known to him, and shewing likewise from what sources the said moneys shall have been derived, together with such information respecting the state of education in Upper Canada, and plans and suggestions for the improvement thereof, as he shall deem to be expedient, in order that the same may be laid before the Legislature at the meeting thereof next following.

School moneys when and how payable to County Treasurers.

III. And be it enacted, That the sum of money to be annually distributed for the encouragement of Common Schools in Upper Canada aforesaid, shall be payable on the first day of May in each year, by Warrant to the Treasurers of the several Counties in Upper Canada.

IV. And be it enacted, That each County Treasurer shall, when he shall have received the sum of money apportioned to his County, immediately give notice thereof in writing to the Clerk of the Municipal Council of his County.

Duty of County Treasurers.

V. And be it enacted, That the duty of the said Clerk shall be, when he shall have received notice of the apportionment of School moneys for his County, and also when the Treasurer of his County shall have given him notice that the said apportionment has been received by him, to lay the same as soon as possible before the Municipal Council of the said County.

Duty of Clerk of Municipal Council.

VI. And be it enacted, That the said Municipal Council shall in its discretion cause a sum not exceeding Twenty-five per cent. of the said apportionment to be deducted from the said apportionment, and constituted a fund for the relief of such School Sections as may not, without special assistance, be able to establish or maintain Schools; and the said Municipal Council shall, in its discretion, cause the said fund to be distributed to such School Sections in such amounts as it shall judge to be proper: Provided always, that the said Municipal Council shall not authorize any such School Section to receive in any year, from such School Relief Fund, a sum exceeding ten pounds currency; And provided also, that it shall not authorize any portion of the said fund to be paid to any School Section in which the inhabitants may be sufficiently wealthy to be able to support a School without such assistance; nor to any section which may be conveniently united to another School Section, and so be made able to support a School; nor to any School Section which shall not have raised, by taxation or otherwise during the then current year, a sum at least equal in amount to the sum which the said Municipal Council shall have apportioned to such section; nor unless it shall appear that the sum which such section shall have raised, shall have been applied to the payment of the Teacher of such section for such year; nor unless it shall have been certified to the Council that such section shall not have received any portion of the residue of the Legislative Grant, to be distributed as hereinafter provided, after the aforesaid sum shall have been deducted.

Reserved fund as an aid to certain poorer School Sections.

Proviso as to amount of aid.

Proviso: aid not to be granted in certain cases.

VII. And be it enacted, That the said Municipal Council, after deducting from the apportionment of School moneys for its County as aforesaid, a sum sufficient for a School Relief Fund, shall apportion the residue of the said apportionment to the several Townships, Towns and Cities in the County, according the ratio of population in each, as compared with the whole population which shall have been last taken and returned at the time of such apportionment; or if the census or returns upon which such apportionment ought to be made, be so defective that an apportionment made according to it would be unjust, it may and shall be lawful for the Council to apportion such School moneys according to the best evidence in its power, having respect to a fair and equitable apportionment thereof according to the said ratio of population: Provided always, that before such apportionment be made, the population of such School Section or Sections as are to receive any portion of the School Relief Fund, shall be deducted from the population of the several Townships, Towns or Cities in which such section shall be located, and the apportionments to such Townships, Towns or Cities shall be made according to the population in them respectively, (exclusive of the population of the relieved School Sections,) as compared with the whole population of the County in which such Townships, Towns or Cities may be.

Distribution of the rest of the apportionment for any County.

Proviso as to the ratio of apportionments.

Notice to the Township, Town, and City Councils in the County, and to the Superintendents of Schools.

VIII. And be it enacted, That the Municipal Council of each County in Upper Canada shall, after it shall have apportioned as aforesaid the School moneys for its County, immediately cause a notice thereof to be given in writing to the Clerks of the several Township, Town or City Councils in its County, and to the Township, Town and City Superintendents of the Schools of the County, and shall cause to be stated therein the amount of money apportioned to each Township, Town and City, respectively,—the aggregate amount of the apportionments,—the ratio of population according to which the said apportionments shall have been severally made,—the number and designations of the School Sections which are not to be included in the number to which the money apportioned to any Township, Town or City is to be distributed,—and the amount granted from the School Relief Fund to each such School Section for the maintenance of a School therein.

Treasurers of County to pay moneys to Superintendents of Townships, &c.

IX. And be it enacted, That the notice in writing which the said Municipal Council shall give any Township, Town or City Superintendent of the Schools of its County as aforesaid, shall be sufficient Warrant to the said Superintendent to receive from the Treasurer of the said County the sum of School money which shall have been apportioned to his Township, Town or City; and it shall be the duty of the said Treasurer to pay the same to the said Superintendent on the authority of the said notice, and on no other, without retaining any per-centage thereon.

Superintendents of Schools for Towns, Townships, &c., how appointed—security, &c.

Proviso: if insufficient sureties be taken.

X. And be it enacted, That the Superintendent of Schools in each Township, Town and City shall be appointed by the Council of such Township, Town or City, and shall hold office during the pleasure of the said Council, and shall, before he enter on the duties of his office, enter into a bond with two or more sufficient sureties to such amount as shall be required by the said Council, and such bond shall be to the said Council, and shall be conditioned for the faithful performance of the duties of such Superintendent, and the sureties thereto shall be to the satisfaction of the said Council; Provided always, that if insufficient sureties be accepted by the said Council, the members of such Council who shall have voted for the accepting of such sureties shall be personally holden in lieu of the said sureties and amenable in their stead, if the said Superintendent shall fail to perform the duties required of him by this Act.

Superintendent may be appointed for more than one place.
Proviso as to security.

XI. And be it enacted, That any person appointed to be the Superintendent of the Schools of any Township, Town or City, may likewise be appointed to be the Superintendent of any other Township, Town or City in his County, or of the Schools of all the Townships, Towns and Cities in the same; Provided always, that he shall, as is required by the tenth section of this Act, enter into a bond to the Municipal Council of each Township, Town or City for which he shall have been appointed, for the faithful performance of his duties, in respect to the Township, Town or City to the Municipal Council of which the said bond shall be.

Duties of local Superintendents.

XII. And be it enacted, That the duty of every Township, Town or City Superintendent of Schools in Upper Canada, in respect to each Township, Town or City whereof he shall be Superintendent of Schools as aforesaid, shall be—

Visits and examinations.

First—To visit and publicly examine every Common School in the Township, Town or City, at least once a year, and oftener if he shall deem it necessary, or if the Municipal Council of the Township, Town or City shall require him.

Secondly—

Secondly—To deliver in each School Section, at least once a year, a public lecture on some subject connected with the objects or interests of Common Schools.

Lectures.

Thirdly—To give notice to the Teacher of the School which he shall intend to visit, of his intention to visit and examine the same, at least three days before that on which he shall visit and examine the same, and the duty of the Teacher shall be to give public intimation of the notice, so that all having an interest in the School may have an opportunity to be present.

Notice of visit.

Fourthly—To prevent the use of such books as shall not have been authorized as hereinafter provided,—to recommend the use of the books which shall have been authorized,—and to give to Teachers, Trustees and Parents or Guardians, such advice in regard to the interests and management of their Schools as he may judge to be proper, or as he shall, by any of the said persons, be asked to give.

Choice of books, &c.

Fifthly—To see that Teachers and Trustees perform the duties required of them by this Act.

Overseers, Teachers.

Sixthly—To sue for and collect, by his name of office, all penalties and forfeitures imposed by this Act and which shall have been incurred by any officer or inhabitant of the Township, Town or City, and with respect to which no other provision shall have been made.

Suing for penalties, &c.

Seventhly—To apply for and receive from the Treasurer of the County the sum or sums of money apportioned to the said Township, Town or City by the Municipal Council of the County thereof, and apply the same as the Municipal Council of the said Township, Town or City shall direct; Provided always, that he shall not pay any part of the money apportioned to any School Section of said Township, Town or City by the Municipal Council thereof, unless it shall appear that a sum at least equal in amount to the moneys apportioned to such sections, shall for the payment of the salary of the Teacher of the Common School thereof for the then current year, have been levied on the inhabitants of such section; nor unless a School shall have been in operation therein during six consecutive months, either within the year for which the said money shall have been apportioned, or within the last three months of the preceding year, and so much of the then current year consecutively following such portion of the preceding year, as with the said portion shall constitute six months; nor unless, when there shall have been a School in operation therein during a portion of the preceding year, a sufficient report therefrom shall have been received; nor unless it shall be that no portion of the money apportioned to such Township, Town or City for the preceding year shall have been paid to such section for the payment of the salary of the Teacher of the School thereof for such year.

Receiving and applying school moneys.

Proviso: conditions on which money may be allowed to any School section.

Eighthly—To call for and receive from the Collector of such Township, Town or City, all moneys that for School purposes shall by virtue of and under the authority of any By-law or By-laws of the Municipal Council of the Township, Town or City, be raised in the Township, Town or City, and distribute or apply them for such purposes as the provisions of such By-law shall direct.

Receiving moneys from Collectors and applying the same.

Ninthly—

Ninthly—To retain in his hands, subject to the order of the Municipal Council of the said Township, Town or City, all moneys which shall have been apportioned to the School Sections of such Township, Town or City, and which shall not have been called for, or which he shall not have been able to apply according to the provisions of this Act; which moneys such Council may, in its discretion, add to the moneys to be next distributed to the School Sections of such Township, Town or City, and distribute them as a part of the apportionment to be then next distributed.

Tenthly—To see generally that the provisions of this Act, so far as they relate to such Township, Town or City, be complied with; and to make a Report annually on or before the first day of March in each year to the Municipal Council of such Township, Town or City, and a similar report annually, on or before the same day to the Municipal Council of the County in which such Township, Town or City shall be; which Report shall be in such form as the Chief Superintendent of the Common Schools of Upper Canada shall have appointed: and shall state:

1. The whole number of School Sections or parts of School Sections in such Township, Town or City, separately numbered and described.

2. The number of children, over the age of five and under the age of sixteen years, taught in each,—also the number of persons over the age of sixteen years taught in each,—the sexes of each of such classes,—and the number of children over the age of five years and under the age of sixteen years residing in each of such sections or parts of sections, and their sexes.

3. The length of time a School shall have been in operation during the year in each Section,—the books used, and the subjects taught,—and whether the Teacher shall have been duly qualified, and the Trustees have duly reported.

4. The amount of moneys which shall have been received by each section, and the amount collected by each, distinguishing the amount appropriated by the Municipal Council of the Township, Town or City,—the amounts from the School Relief Fund,—the amounts raised by assessment,—the amounts raised by the Trustees,—and the amount from any other and what sources; also, how all such moneys have been expended, and whether any and what part remains unexpended, and from what cause or causes.

5. The number of his School visits during the year,—the whole number of School Houses in the Township, Town or City; the number hired,—the number which are the property of their School Sections; and the number which shall have been erected during the year; with his opinion respecting such School Houses as respects their affording accommodation,—their healthfulness and their adaptedness for the purposes of a School; also whether such School Houses were built by voluntary contribution or by a tax imposed on the inhabitants of the School Section.

6. So far as he may be able to ascertain, the number of private Schools kept in the Township, Town or City,—the number of pupils and the subjects taught in such Schools.

7. The number and extent of the Schools and Public Libraries in such Township, Town or City, where situate, and how established and supported; also any other information

Retaining moneys not called for.

Seeing to the execution of this Act, and reporting.

What the report shall contain.

Description of School sections.

Number and description of those taught.

Time each School was in operation, &c.

Moneys received, and expended.

School visits, School Houses, &c.

Private Schools;

Libraries, and miscellaneous information.

information he may possess respecting the educational state, wants and advantages of the Township, Town or City: and any suggestions he may think proper to make, with a view to the improvement of the Schools and to the diffusion of useful knowledge in such Township, Town or City.

XIII. And be it enacted, That in case the Superintendent of the Common Schools of any Township, Town or City, shall not, on or before, the first day of March in any year, transmit to the Municipal Council of his County, or shall not on or before the said day in any year, transmit to the Municipal Council of his Township, Town or City, his Report as hereinbefore provided, it shall be the duty of the said Clerk of such Council to give immediate notice of such neglect to the Townreeve, Mayor or Warden of his Council; and the share of the School moneys apportioned to the Township, Town or City whose Superintendent shall not have reported, may be, in the discretion of the Municipal Council of the County in which such Township, Town or City may be situate, withheld till such Report for such Township, Town or City shall have been made and transmitted either by such Superintendent or by a person authorized by the Municipal Council of such Township, Town or City to make and transmit the same; and the Superintendent who shall have neglected to make such Report, shall forfeit to the use of his Township, Town or City, for the School purposes thereof, the sum of Ten pounds, which shall be recoverable from such Superintendent at the suit of his successor in office, whose duty it shall be to sue for and collect the same, in his name of office, in any Court possessing competent jurisdiction; Provided always, that if the Municipal Council of his Township, Town or City shall continue in his office of Superintendent the person who shall have been guilty of such neglect, any person whatever being an inhabitant of such Township, Town or City may in such Court sue for and recover the same for the use of his Township, Town or City as aforesaid; And provided likewise, that the suit for the recovery of said sum of Ten pounds shall have been commenced, on the complaint of such person, within three calendar months from and after the time when such Report ought to have been transmitted.

Case of the Superintendent not reporting provided for: Penalty on him.

How recoverable.

Proviso: if defaulting Superintendent be continued.

Proviso: limitation of suit.

XIV. And be it enacted, That each Township, Town and City Superintendent of Common Schools shall keep a just and true account of all School moneys received and expended by him in each year, and shall deliver the same to the Clerk of the Municipal Council of his Township, Town or City, to be by such Clerk laid before the Council; and in case of the removal from office of any such Superintendent, or in case of his resignation or his removing his residence from the County in which the Township, Town or City for which he shall be Superintendent may be situate, he shall immediately render to his successor in office a just and true account of all School moneys received and expended by him during the then current year, and of all balances in his hands, and shall forthwith pay over all such balances to his said successor, who shall appropriate the same in like manner as it should have been appropriated by such Superintendent, had he remained in office; and if any vacancy in the office of such Superintendent shall occur, by the death of such Superintendent, his personal representatives or sureties shall render such account and pay over such balances; and every such Superintendent who shall refuse or neglect to render such account or to pay over such balance, shall forfeit and pay the sum of Twenty-five pounds, which together with such balance, so far as the same can be ascertained, and interest and costs thereon, shall be recoverable from such Superintendent or his sureties, at the suit of such

Accounts to be kept by Superintendents for Townships, Towns, &c., and rendering thereof—case of removal, death, &c., provided for.

Penalty for neglect to account, or pay over balance.

such successor, whose duty it shall be to sue for the same in his name of office, in any Court possessing competent jurisdiction; and every personal representative or surety of any deceased Superintendent who shall refuse to render such account or to pay over such balances, shall forfeit and pay a like sum, to be in like manner sued for and collected.

Appointments of Superintendents to be reported to the Council of the County, &c.

XV. And be it enacted, That it shall be the duty of every Township, Town or City Clerk, to report in writing to the Municipal Council of the County in which his Township, Town or City may be, every appointment of a Township, Town or City Superintendent of Common Schools which shall have been made from time to time by the Municipal Council of his Township, Town or City, and the name and address of the person so appointed, within seven days after such Superintendent shall have entered into a bond as aforesaid, for the faithful performance of his duties as such Superintendent, and it shall be the duty of such Clerk likewise within seven days after a vacancy shall have occurred in the office of Township, Town or City Superintendent, to report such vacancy to the Municipal Council of his County, and also to report the same as soon as possible to the Municipal Council of his Township, Town or City.

Also vacancies.

Emoluments of Superintendents.

XVI. And be it enacted, That the Superintendent of the Common Schools of any Township, Town or City, shall be paid by such salary or per-centage as the Municipal Council of such Township, Town or City shall appoint, and such salary shall be raised and levied rateably upon the whole rateable property in the Township, Town or City, according to the assessment laws which shall then be in force.

What shall be deemed "School Sections," under this Act.

XVII. And be it enacted, That all the divisions of Townships, Towns or Cities in that part of this Province formerly Upper Canada, which shall have been established before this Act shall be in force, and which shall then exist and be called "School Sections," shall not cease, but shall continue to be School Sections for the purposes of this Act, until altered as hereinafter provided; and the Trustees of such Sections shall be as if they had been chosen by virtue of and under the authority of this Act, and shall have all the powers, and discharge all the duties of Trustees, and be subject to all the liabilities and penalties to which Trustees are subjected by this Act, until their successors shall have been appointed.

Municipal Council to fix and alter School Sections.

XVIII. And be it enacted, That it shall and may be lawful for the Municipal Council of each Township, Town and City in Upper Canada to alter any School Section of such Township, Town or City, or cause a new division of such Township, Town or City into School Sections, or to unite two or more of such Sections, and determine the site on which the School House of any School Section in the Township, Town or City shall be built; Provided always, that any alteration of the site of any School House, or any alteration of any School Section which shall not have been made with the consent of the Trustees of the Section, shall not take effect until three months after notice thereof shall have been given in writing to one or more of such Trustees.

Proviso as to notice to Trustees, &c.

Duty of the Council as to new Sections.

First Meeting, Notice, &c.

XIX. And be it enacted, That it shall be the duty of the Municipal Council of each Township, Town or City aforesaid, whenever it shall have formed a new School Section in any Township, Town or City, to appoint a person or persons who shall call the first School Section Meeting in said section; and to communicate to such person

or persons, in writing, the description and number of the Section; and it shall be the duty of such person or persons, within twenty days thereafter, to prepare a notice in writing, describing such section and appointing the time and place for the meeting; and to cause copies of such notice to be posted in at least three public places in the section, at least six days before the time of holding such meeting.

XX. And be it enacted, That at the first School Section Meeting which shall be held in a new School Section, the landholders and householders thereat, being residents in said Section, shall elect three fit and proper persons to be Trustees of such Section, and such persons shall hold office until the second Tuesday in January next after their election, and until their successors in office shall have been appointed.

Election of School Trustees, in new Sections.

XXI. And be it enacted, That on the second Tuesday in January next after there shall have been a first School Section Meeting held in any new School Section, the landholders and householders resident in such Section shall again meet at the hour of twelve of the clock at noon, at such place as shall have been appointed by a majority of the Trustees of the Section, who shall cause notice of the meeting to be posted in at least three public places in the Section, at least six days before the time therein appointed for the holding of the meeting; and a like meeting shall, from and after the passing of this Act, be in like manner held in every School Section in Upper Canada, on the second Tuesday in January in every year; and the duty of the Trustees of each School Section in Upper Canada shall be to give notice of such meeting in the manner aforesaid and at the time aforesaid.

Annual Meeting for election of Trustees for each Section.

Notice of Meeting.

XXII. And be it enacted, That when the meeting held on the second Tuesday of January in such School Section shall be the first School Section Meeting held on such day, the landholders and householders present thereat shall choose three fit and proper persons to be the Corporate School Trustees of such section, who shall respectively hold office for a term of one, two and three years, and shall retire from office in the order of their appointment,—the first appointed to retire at the end of one year, the second appointed to retire at the end of two years, and the third appointed to retire at the end of three years; Provided always, that no Trustee shall retire from office until his successor shall have been appointed, nor be relieved from the obligations, liabilities and penalties belonging to his office as Trustee, till the Township, Town or City Superintendent of Schools, whose duty it shall be to see that he shall have faithfully discharged his duty, shall have relieved him therefrom.

First elections of Trustees and their term of office—three to be elected.

Proviso as to retirement from office.

XXIII. And be it enacted, That at each meeting of the landholders and householders of each School Section in Upper Canada, which shall be held on the second Tuesday in January in any year after the year in which Corporate Trustees shall have been appointed, the landholders and householders present shall by a majority elect one fit and proper person who shall succeed the Trustee whose term of office shall have expired, and the person then elected shall continue in office three years, and until his successor in office shall have been elected; Provided always, that the person whose term of office shall have expired may be re-elected, if he be willing.

Subsequent elections—one Trustee to be elected.

Term of office.

Proviso as to re-election.

XXIV. And be it enacted, That if in consequence of the notice hereinbefore required not having been given, there shall have been held no first School Section Meeting, or meeting for the election of Corporate Trustees, or subsequent meeting for the election of

Penalty on persons required to give notice of meet-

ing for election
and not giving
it—how levied,
&c.

of one Trustee, the person or persons whose duty it shall have been to give such notice, shall individually forfeit a sum not exceeding Two pounds, which shall be recoverable for the School purposes of such section, by prosecution before any Justice of the Peace, who is hereby authorized on the complaint on oath of any two inhabitants of such section to hear and determine the same, and to convict the party, and to issue a Warrant to levy the penalty, by sale and distress of the offender's goods: and in such default of holding such meeting, any three resident freeholders shall have authority, within twenty days after the time at which such meeting should have been held, to call such meeting, by giving six days' notice to be posted in at least three public places, in such School Section.

Penalty on
Trustees refus-
ing to serve
or to act.

Vacancies,
how filled.

XXV. And be it enacted, That if any person chosen as a Trustee shall refuse to serve or shall, at any time during the term of his Trusteeship, refuse to do his duty as a Trustee, he shall forfeit a sum not exceeding Five pounds, which sum shall be collected and applied in the same manner as the fines imposed by the foregoing provision of this Act are to be collected and applied; and, if one or more vacancies shall occur among the Trustees, by reason of refusal to serve, permanent absence from the School Section, death or incapacity from sickness, such vacancy or vacancies shall be filled up by the electors of such School Sections, at a meeting to be called for that purpose by the surviving Trustee or Trustees; and in case of there being no surviving Trustee, the Municipal Council of the Township, Town or City shall fill up the vacancies, and the person or persons who shall be appointed to fill up the vacancy or vacancies shall continue in office during the period for which the person or persons whom he or they shall succeed would have been required to serve.

Re-election
must be volun-
tary.

XXVI. And be it enacted, That no School Trustee shall be re-elected, except by his own consent during the four years next after his going out of office.

Who shall
preside at
elections of
Trustees, &c.

Records of the
proceedings.

XXVII. And be it enacted, That at every School Section Meeting of the landholders and householders of each Section in Upper Canada, whether the same shall have been called as hereinbefore provided or otherwise, the landholders and householders present thereat shall by a majority, appoint one of themselves to preside over the proceedings of the said meeting, and one of themselves also to record the said proceedings; and the duty of the said persons shall be to prepare two copies of the record of the said proceedings and transmit one of them to the Clerk of the Municipal Council of the Township, Town or City, and post one in such place as they shall deem to be the most public one, within the School Section in which such meeting shall have been held.

School Trust-
tees to be a
Corporation.
Corporate
name and
powers.

XXVIII. And be it enacted, That the School Trustees in each School Section shall be a Corporation, under the name of *The School Trustees of Section number* ;
in the Township, Town or City of *in the* *County of* ;
and shall have perpetual succession and a common seal, and may sue and be sued, and shall generally have the same powers which any other body politic or corporate has with regard to the purposes for which it is constituted; but they shall not at any time hold real property.

Corporation
not to fail for
want of Trus-
tees.

XXIX. And be it enacted, That no such Corporation shall cease by reason of the want of Trustees, but the powers of the Corporation in such case, as regards the holding of any personal property belonging to such Corporation, shall become vested in the

the Superintendent of the Schools of the Township, Town or City in which the said Corporation may be situate, until the Municipal Council of such Township, Town or City, shall as hereinbefore provided appoint persons to fill up the vacancy which shall have occurred.

XXX. And be it enacted, That it shall be the duty of the Trustees of each School Section in Upper-Canada :

Duties of the Trustees.

First. To appoint one of themselves to be Secretary-Treasurer of their School Section, whose duty it shall be to keep a minute of the proceedings of the Trustees in a book kept for that purpose,—to receive the moneys from whatever source derived, belonging to his School Section, for School purposes,—to account to his colleagues for such moneys,—and to disburse them as a majority of the Trustees shall direct; Provided always, that the directions of the majority shall be in accordance with the provisions of this Act.

Appointing Secretary-Treasurer.

Secondly. To take possession of all property which shall have been acquired for Common School purposes in their section, and hold the same for such purposes; and acquire and hold for the Corporation of their section, any and all personal property, moneys and incomes belonging to said Corporation for Common School purposes; and use and apply the same according to the terms of acquiring or receiving them, until by law the power hereby given be taken away or modified.

Taking possession of School property, and using the same.

Thirdly. To do whatever may be expedient with regard to building, repairing, renting, renewing, warming or keeping in order the School House of their section, and also to do whatever may be expedient for the keeping in order the appendages to the same, and the lands, fences and moveable property of whatever description which shall be the property of their School Section; Provided that no rate shall be levied for the building of a School House, or for the purchasing of a site for a School House in any School Section, otherwise than under a By-law of the Municipal Council of the Township, Town or City in which such section shall be; nor unless a memorial praying that such rate shall be levied, shall have been signed by a majority of the landholders and householders of such section, and shall have been submitted to said Council by a person or persons authorized by the said majority to submit the same.

Taking care of School property.

Proviso as to rates for building School Houses.

Fourthly. To adopt such means for the maintenance of the School of their section as at the School Section Meeting of the landholders and householders of their section, held on the second Tuesday of January in any year, shall have been approved of for such year by a majority of the landholders and householders present at such meeting, being residents in the section; Provided always, that the means approved of at such meeting shall be in accordance with the provisions of this Act as hereinafter provided.

Maintenance of the School.

Proviso.

Fifthly. To determine on and prepare a Rate Bill, which, in their discretion, may be payable quarterly, half yearly or yearly, and shall contain the name of every person liable to pay for the instruction of children sent by him to the Common School of their section, or for the instruction of himself at such School, or for firewood, or for any charge necessarily incurred by such attendance; and shall contain the amount also for which such person shall be liable; and the same may be collected by themselves,

Preparing Rate Bill—its contents, &c.

Collection.

or

or by any one of them, or by their Collector appointed by them to collect the same ; and if they employ a Collector, five per centum may be added thereto for the cost of collection and be collected therewith ; Provided always, that they shall not enforce the payment of any Rate Bill, if the majority of the landholders and householders of their section as aforesaid, and as hereinafter provided, shall have determined to support the Common School thereof by a tax upon the rateable property in the section, and the Municipal Council of the Township, Town or City shall have, accordingly, levied an assessment on such section sufficient for the support of such School.

Proviso : pay-
ment not to be
enforced in
certain cases.

Exempting in-
digent persons,
&c.

Levying the
Rate, &c.

Powers of Col-
lector.

Determining
number of
children, &c.

Engaging
Teacher, &c.

Selecting
books.

Seeing to the
conduct of the
School.

Making an-
nual report to
the Superin-
tendent.

Contents of
the Report.

Sixthly. To exempt wholly or in part from the payment of the Rate Bill, such indigent person or persons within their School Section, as they shall think proper ; and in case of default of payment by any person to whom the claim against him, on the Rate Bill shall have been made known by them, to levy the amount by distress and sale of the goods and chattels of such person under the authority of a Warrant issued by any Justice of the Peace, and in case such person reside without the School Section, and have no goods or chattels within it at the time of making such collection, to sue for the amount of the claim in their name of office, in any Court of competent jurisdiction and recover the same with costs thereon ; and for the collection of such rate, the Collector appointed by the Trustees shall have within their School Section the same powers that the Collector of any County Rate shall have for the collection of such rate.

Seventhly. To ascertain the number of children over the age of five years and under the age of sixteen years, residing in their School Section, and allow them and any person, and all persons residing in their section, to attend the Common School thereof, so long as the conduct of such persons shall be agreeable to the rules of the School.

Eighthly. To engage and appoint from time to time a duly qualified person or persons to teach the Common School of their section ; and to give such person or persons the necessary orders upon the Superintendent of their Township, Town or City, for the portion or portions of School money to which, according to the provisions of this Act, the said person or persons shall be entitled.

Ninthly. To select from a list of books which shall have been made out by the Board of Education for their County, the books that shall be used in their School ; and to allow the use of no other.

Tenthly. To see that their School is conducted according to the regulations which shall be furnished by the Chief Superintendent.

Eleventhly. To prepare and transmit annually, on or before the second Tuesday in January, a Report to the Superintendent of the Common Schools of their Township, Town or City, which shall be signed by a majority of them, and be according to a form which shall be provided by the Chief Superintendent, and shall specify :

1. The whole time that the School of their section shall have been in operation, under a qualified Teacher, during the year which shall have ended on the thirty-first day of December next before the day on which the Report shall be dated.

2. The amount of moneys received from the Superintendent of the Schools of their Township, Town or City, and the amount of moneys received from other sources, distinguishing the same, and the purposes for which all such moneys shall have been expended.

Contents of
the Report.

3. The number of children over the age of five years and under the age of sixteen years, residing in their section on the last day of December aforesaid; the names of the parents or others with whom such children shall then respectively have been residing; and the number of children that shall have been residing with each.

Contents of
the Report.

4. The number of children over the age of five years and under the age of sixteen years that shall have attended their School during the year; the number of persons over the age of sixteen years that shall have attended during the same; the name of each individual of both classes, and the number of days that each individual shall have attended, and the month or months in which those days were.

Contents of
the Report.

5. The branches which shall have been taught in their School during the year,—the number of pupils in each branch,—the sex or sexes of such pupils,—the text books used,—the number of public lectures on subjects connected with the objects and interests of education which shall have been delivered in their section during the year,—by whom they shall have been delivered,—the number of times which the Township, Town or City Superintendent and any other person or persons shall have visited their School during the year,—and the names of such pupils as shall have distinguished themselves by good conduct and proficiency during the same.

Contents of
the Report.

XXXI. And be it enacted, That the Secretary-Treasurer of each School Section in Upper Canada, shall make a fair copy of the Report of the Trustees of his section, and shall at or before the time of transmitting the said Report to the Township, Town or City Superintendent, certify the said copy to be true, and shall forthwith give it to the Teacher of the School of his section; and the duty of the Teacher shall be to post the same immediately in a conspicuous place in the School House of the said section, and see that it be preserved for the information of the inhabitants of such section, during at least one month from and after the time at which it shall have been posted.

Secretary-
Treasurer to
make a copy,
for the Tea-
cher, of the
Report, &c.
Duty of Tea-
cher as to the
Report.

XXXII. And be it enacted, That it shall be the duty of every Teacher of a Common School in Upper Canada, further:

Duties of
Teachers.

First. To teach diligently and faithfully, all the branches required to be taught in his School, according to the terms of his engagement with the Trustees of such School, and according to the provisions of this Act.

Teacher's
duties.

Secondly. To keep a record, which shall be according to a form which shall be provided by the Chief Superintendent.

Teacher's
duties.

Thirdly. To maintain proper order and discipline in his School, according to the regulations which shall be provided by the Chief Superintendent.

Teacher's
duties.

Fourthly. To have at the end of each quarter a public examination of his School, and to give due notice of the time thereof to the Trustees of his School, and to the parents

Teacher's
duties.

parents and guardians of his pupils, so that all interested in his School may have an opportunity of attending.

Teacher's
duties.

Fifthly. To act as the Secretary to the Trustees of his School, if they shall require him, in the preparing of their Reports: Provided always, that the time of his engagement with such Trustees shall not have expired before the time of preparing such Report.

Teacher's
duties.

Sixthly. To furnish in writing such information as the Superintendent of the Common Schools of his Township, Town or City shall require respecting the state of his School, or respecting any of his pupils, or respecting any thing in regard to which it shall be the duty of such Superintendent to report, and respecting which it shall be in the power of such Teacher to give information.

Superintend-
ent may with-
hold moneys
until the an-
nual Report is
made.

XXXIII. And be it enacted, That the Superintendent of the Common Schools in each Township, Town or City in Upper Canada, shall have authority to withhold from any School Section, and from the Teacher or Teachers of any School Section, such portion or portions of moneys which shall have been apportioned to such section, or raised therein for the School purposes thereof, and shall be in his hands on the first day of December in each year, until he shall have received from the Trustees of such section their annual Report for such year.

Punishment of
Trustees or
Teachers
making false
Reports, &c.

XXXIV. And be it enacted, That if any Trustee of a Common School in Upper Canada, or any Teacher of such School, shall, with the intent of obtaining a larger sum than the just proportion of School moneys to such School, make a false report, or communicate false information to the Superintendent of the Common Schools of his Township, Town or City, he shall on his being convicted thereof before any Justice of the Peace, on the complaint of any person whatever, for each offence, forfeit a sum not exceeding Five pounds to the School Fund of his Township, Town or City, and shall be liable to be tried and punished for misdemeanor.

Duty of Muni-
cipal authori-
ties in levying
a sum equal to
that obtained
from Govern-
ment.

How collected.

XXXV. And be it enacted, That the Municipal Council of each Township, Town and City, in Upper Canada, shall, in every year, and within the limits of its powers of imposing taxes, cause to be levied for the payment of the Teachers of the Common Schools of its Township, Town or City, for the then current year, such sum of money as, clear of all charges for the collection thereof, shall be at least equal to the amount of public money which shall have been apportioned to such Township, Town or City for such year; and this sum, to be so raised, shall be placed upon the proper Collectors' Rolls, and shall be collected by such Collector in such manner as his duty shall be to collect any other tax for such Township, Town or City, and shall be by him paid over to the Superintendent of the Common Schools of such Township, Town or City, within the period fixed by law for the payment of rates to the Treasurer, to whom such other taxes or rates collected by him shall be payable; and such Collector shall there-with give to such Superintendent a statement in writing whereby such Superintendent shall know the amount which shall have been collected in each School Section; and such Superintendent shall pay to the Teachers of the Common Schools of his Town-ship, Town or City, such amounts as shall have been so certified by such Collector to have been collected in their School Sections respectively; Provided always, that such Superintendent shall retain in his hands the sum which shall be payable to the Teacher of any School Section from which no sufficient Report for the year shall have been received, until the Trustees of his School shall furnish such Report.

Account by
Collector.

Payments to
Teachers.

Proviso as to
Schools not
reported
upon.

XXXVI.

XXXVI. And be it enacted, That in case the amount which the Superintendent of the Common Schools of any Township, Town or City shall receive from the Collector of the rates of such Township, Town or City for any School purpose, shall be less than the amount which, according to the By-law of the Municipal Council of his Township, Town or City providing for the collection of the same, should have been collected in such Township, Town or City, it shall be the duty of such Superintendent to give notice of the discrepancy immediately to the Clerk of such Council, so that the Council may as soon as possible cause the Collector to account for it.

Superintendent's duty, if the collector do not pay over the proper sum.

XXXVII. And be it enacted, That when the Municipal Council of any Township, Town or City shall have caused to be levied, for the payment of the salaries of the Teachers of the Common Schools of its Township, Town or City, for the current year as aforesaid, a sum at least equal to the amount of public money apportioned to such Township, Town or City for such year, it may and shall be lawful for such Council to apportion the said public money to such Teachers according to the ratio of days which the aggregate attendance of the scholars of each School in such Township, Town or City shall exhibit as compared with the days which the aggregate attendance of all the scholars of all the Schools in such Township, Town or City shall exhibit, and the Superintendent of the Schools of such Township, Town or City shall pay such apportionments at such time as the said Council shall direct: Provided always, that a rate equal to the whole amount apportioned to such Township, Town or City shall have been levied as aforesaid; And provided also, that the attendance of any person or persons over the age of sixteen years shall not be included in the attendance according to which such apportionment shall be made.

When the proper amount is raised, the money may be apportioned among the Teachers by a certain rule.

Proviso.

XXXVIII. And be it enacted, That it may and shall be lawful for the Municipal Council of each Township, Town and City in Upper Canada, to cause to be levied on the inhabitants of all or any School Section within its Township, Town or City, for the purchasing or procuring of School sites,—the erecting, repairing, renting, furnishing or warming of School Houses,—the purchasing of necessary books, maps, globes, black-boards and other apparatus for the use of the Schools of such section,—for the payment of Teachers, and for Common School purposes generally, (and over and above the sum of money required by this Act to be equal to the public money apportioned to such Township, Town or City),—such assessment as such Council shall judge to be expedient; any thing in any law or statute to the contrary notwithstanding; Provided always, that the said additional assessment shall in no case be levied unless a majority of the Trustees of the School for the benefit of which such assessment shall be intended, shall have petitioned for the same, and shall have certified such Council that a majority of the landholders and householders present at the School Section Meeting of their section, held on the second Tuesday of January in the then current year, did approve of such assessment; And provided also, that when an assessment for the full amount required for the support of the School of any section for any year shall have been levied on the inhabitants of such section, such School shall be free, and no fee shall be required of any inhabitant of the section for instruction received therein, by his children or himself, during such year; And provided further, that it may and shall be lawful, nevertheless, for the Trustees of such School Section to determine and prepare a Rate Bill for the contingent expenses of such year, and to recover the same from the person or persons liable for the same, according to the provisions of this Act regarding the duties of Trustees.

Municipality may impose such rates as shall be thought requisite for School purposes, on any School Section.

Proviso: conditions of additional assessment—consent of Trustees, &c.

Proviso.

Proviso.

XXXIX.

How such assessment shall be collected.

XXXIX. And be it enacted, That the assessment so to be made for Common School purposes generally, shall be placed upon the proper Collectors' Rolls and shall be collected by the Collector, in the same manner as it shall be his duty to collect any other rate for his Township, Town or City, and shall be paid over by him to the Superintendent of the Common Schools of the Township, Town or City, within the period fixed for the payment of rates to the Treasurer, to whom the payment of such other taxes or rates collected by him shall be payable: and such Collector shall give in writing to such Superintendent a statement of the amount payable to each School Section, and of the purposes also for which they shall be payable; and such Superintendent shall according to such statement disburse such amounts to the Trustees of the School Sections in which they shall severally have been collected; and in case the amounts specified in the said statement shall not agree with the amounts specified in the By-law or By-laws of the Municipal Council authorizing such assessment, it shall be the duty of such Superintendent to give to the Clerk of the said Council immediate notice of the discrepancy.

Collector to account.

Superintendent's duty.

Superior Schools may be formed for Unions of Sections.

Provide; suitable School House to be provided.

XL. And be it enacted, That in case a majority of the rateable inhabitants of each of any two or more adjoining School Sections shall petition the Municipal Council of the Township, Town or City in which such sections may be situate, to unite such sections for the purpose of establishing a School in which the Scholars shall be classified according to their knowledge, and each class shall be a separate department and each department shall be under a different Teacher, and the Teachers thereof be under the supervision of a Head Master who shall be Teacher of the senior department thereof, it may and shall be lawful for said Council to unite said sections; Provided always, that the Schools of the sections respectively shall not be discontinued, nor such sections be constituted one School Section until a suitable School House shall have been erected in a central and convenient place within the limits which shall constitute the new section, nor until such School House shall have been completed to the satisfaction of the said Council, and according to a plan which shall have been approved of by such Council.

Effect of such Union of Sections as to their School property, &c.

Provide as to Trustees.

XLI. And be it enacted, That when two or more sections shall have been constituted one School Section, the powers of the Trustees of the several sections shall cease, and the personal property of the several sections which shall have been held by the Trustees of them for School purposes, shall become vested in the Superintendent of the Common Schools of the Township, Town or City, in trust for the new section, until the Municipal Council of such Township, Town or City shall have called a first School Section Meeting in such section, and until Trustees shall have been elected, as hereinbefore provided; but the Trustees whose powers shall cease shall, nevertheless, not be relieved thereby from the obligations, liabilities and penalties belonging to their office as Trustees, till the Superintendent of the Common Schools of their Township, Town or City, shall have been satisfied respecting the same, and have relieved them as hereinbefore provided.

Real property held for School purposes to be vested in the Municipality in trust.

XLII. And be it enacted, That all lands, houses, tenements and property of every description, which have been heretofore acquired for Common School purposes, and vested in the District Council of any District in Upper Canada, or vested in the hands of Trustees in any Township, Town or City in Upper Canada, shall after this Act shall be in force, be vested in the Municipal Council of the Township, Town or City

City in which such trust may be situate; and all such property to be hereafter acquired for Common School purposes, in Upper Canada, shall be vested in such Municipal Councils, in trust for the School Sections to which they shall respectively belong; and it may and shall be lawful for such Councils to sell, convey or exchange such property in such portions and in such manner, and at such times as they shall judge to be expedient for the interests of the sections to which such property shall belong; Provided always, that such property shall not be sold, nor conveyed nor exchanged, nor in any way disposed of by any such Municipal Council, unless a petition or memorial, signed by a majority of the landholders and householders resident in the section to which such property shall belong, and praying for such disposal of such property, shall have been presented to the said Council; nor unless such disposal shall be for the better promoting of the objects for which such property shall have been acquired.

They may alienate it, &c.

Proviso: in what case only it may be alienated.

XLIII. And be it enacted, That for the purposes of this Act, two or more adjoining School Sections which may be severally situated in two or more adjoining Townships, may be constituted one School Section; Provided always, that the provisions hereinbefore enacted in respect to such union shall have been complied with, and that the Municipal Councils of the Townships, Towns or Cities respectively in which such sections may be situated, shall have concurred in such union.

Sections in different Townships may be united.

Proviso.

XLIV. And be it enacted, That every such Union School Section as shall be composed of portions of adjoining Townships, Towns or Cities, shall for the purposes of this Act belong to the Township, Town or City in which the School House of the section shall be located, and the inhabitants of such portion or portions as may not be in the Township, Town or City in which the School House may be located, shall for all the purposes of this Act, be rated as belonging to the said Township, Town or City, and the apportionments of public money which shall belong to said portion or portions, shall be paid into the hands of the Superintendent of the Common Schools of the Township, Town or City in which such School House shall be located; any thing in this Act or in any law or Statute to the contrary notwithstanding.

In what Township, &c. any such Union shall be held to be.

XLV. And be it enacted, That in case any portion of any Township or portions of adjoining Townships be so situated that the inhabitants shall be unable to support a properly qualified Teacher, it may and shall be lawful for the Municipal Council of such Township to authorize any such Teacher to take charge of two Schools, and teach them on alternate days, or during alternate periods on the same day or during alternate weeks or months, or any period that such Municipal Council shall judge to be expedient; Provided that the distance from the extreme limits of one School Section to the extreme limits of the other shall not be less than eight miles.

Teachers may be allowed to teach in two Sections.

Proviso as to distance between such Schools.

XLVI. And be it enacted, That if the majority of the inhabitants of any School Section in which a Grammar School is located, shall petition the Municipal Council of the County in which such section may be situate, to constitute such Grammar School the Senior Department of the School of the said section, it may and shall be lawful for such Municipal Council to grant such petition; Provided always, that the union of the said School and the Common Schools of a section shall not take place unless a suitable building shall have been erected and completed as aforesaid; And provided also, that the sum of money now annually appropriated and applied to the

As to a Section in which the Grammar School lies.

Proviso as to proper School House.

Proviso as to Act of U. C. 59, G. 3, c. 4.

Teachers

Teachers of each Grammar School in Upper Canada, by virtue of and under the authority of the Act of the Legislature of Upper Canada, passed in the fifty-ninth year of the Reign of King George the Third, and intituled, *An Act to repeal part of, and to amend the Laws now in force for establishing Public Schools in the several Districts of this Province, and to extend the provisions of the same*, shall, after the union of any such School and the Common Schools of its section, be still appropriated and applied to the paying of the salary of the Teachers thereof; And provided likewise, that no person being an inhabitant of the County in which such section may be situate, shall be debarred from attending such School on the same terms that the inhabitants of such section shall be allowed to attend; And provided, moreover, that ten poor children, as is provided for in the Statute aforesaid, shall be taught thereat *gratis*.

Proviso: right to attend School.

Proviso as to poor children.

Trustees of Grammar School, and of the Section, to act together for certain purposes.

XLVII. And be it enacted, That when any Grammar School and the Common School of its section shall have been united as aforesaid, the Trustees of the Common School and the Trustees of the Grammar School shall conjointly direct the course of instruction to be pursued in such united School, and conjointly manage the separate trusts thereof as the provisions of law relative to such trusts shall direct.

Grammar School to become a Model School in certain cases, and on certain conditions.

XLVIII. And be it enacted, That in case the Municipal Council of any County in Upper Canada shall have made provision in aid of any Grammar School lying within the boundaries of such County, and shall have caused suitable buildings to be erected and furnished for the accommodation of such School, such School shall thereafter be a Model-School, and gratuitous instruction shall be afforded thereat to any Teacher of a Common School within the boundaries of such County, during such periods and under such regulations as the Superintendent of the Common Schools of the Township, Town, or City, in which such Common School may be located, shall direct.

Teachers of Grammar Schools, &c., hereafter appointed must have a certain certificate of qualification.

XLIX. And be it enacted, That in Upper Canada, from and after the passing of this Act, no person shall be appointed to be the Teacher of any Grammar School or the Head Master of any Model School, or the Head Master of any Common School in which there shall be more than one Master, unless he shall have produced a certificate of qualification signed by the Principal or Head Master of the Normal School in and for Upper Canada, or shall have graduated at some University.

Head Master of Normal School may give a certificate of qualification as a Teacher: its effect. Proviso.

L. And be it enacted, That it may and shall be lawful for the Principal or Head Master of the Normal School in Upper Canada, to give to any person a certificate of qualification to teach a Public School in that part of this Province; and any Public School that shall have been taught by a person holding such certificate shall be entitled to receive such apportionment of public moneys as by this Act or any other Act or Statute is or shall be directed to be paid to such School: Provided always, that such certificate shall not be valid and shall not entitle the holder thereof to any advantage therefrom, if it shall have been cancelled by the giver thereof or his successor, or by any person having competent authority.

County Boards of Education to be appointed.

LI. And be it enacted, That it may and shall be lawful for the Governor or Person administering the Government of this Province, to appoint not more than seven persons in each County in Upper Canada who shall be a Board of Education for their County.

LII.

LII. And be it enacted, That the said Board shall meet on the first Tuesday in January, April, July and October in each year, or oftener if they deem it to be necessary,—that three of their number shall form a *quorum* for the transaction of business,—that at their first meeting in every year they shall choose one of their number to be their Chairman for the year,—and that their meetings shall be held in the County Hall of their County; and it shall be the duty of the person whose name shall stand first in the Commission appointing each Board, to call the first meeting of each.

Meetings of the Board.

Quorum.

Chairman.

Calling first meeting.

LIII. And be it enacted, That the Clerk of the County Municipal Council of each County in Upper Canada shall be the Clerk of the Board of Education of his County, and shall enter all the proceedings of the said Board in a book to be kept by him for that purpose, and shall receive and keep for such Board all books and papers belonging to the Board, and under the direction of the Board shall prepare all their Reports, and do and execute all such writing, having reference to the duties of the Board, as the Chairman thereof or any member thereof shall require of him.

County Clerk to be Clerk of the Board: his duties as such.

LIV. And be it enacted, That the duties of the said Board shall be:

Duties of the Board.

First. To examine all persons who shall offer themselves as candidates for teaching Common Schools in their County, with respect to their moral character, learning and ability; and if satisfied of the candidate's qualifications in these respects, to give him a special certificate authorizing him to teach the School specified therein for one year only; or a general certificate authorizing him to teach any Common School in the County until such certificate shall be revoked.

Examining Teachers and giving certificates.

Secondly. To annul any certificate given by them, or by any former Board or by the Master of the Normal School whenever they shall see just cause for doing so.

Annulling certificates.

Thirdly. To select and recommend proper books for the use of the Public Schools of their County, and to cause a list of such books as they shall select to be sent to each Township, Town and City Superintendent of Schools in their County, for his guidance and direction: Provided always, that no person attending any public School shall be required to read or study any book containing controverted theological dogmas or doctrines, or to join in any exercise of devotion or religion, which shall be objected to by him, or (in case he be a child) shall be objected to by his parents or guardians.

Selecting School books.

Proviso as to religious exercises.

Fourthly. To keep a record of their proceedings, and report, annually, to the Superintendent of Schools for Upper Canada, at their meeting which shall be in July, giving a statement of their proceedings, and such other statements and suggestions relative to education as they may deem expedient.

Recording their proceedings and reporting to Superintendent for U. C.

LV. And be it enacted, That it may and shall be lawful for the Municipal Council of any Township, Town or City to constitute any one of the Common Schools of its Township, Town or City a Model-School for such Township, Town or City, and to appropriate in aid thereof, a sum in each year not exceeding twenty-five pounds, over and above the sum to which such School shall be entitled as a Common School of such Township, Town or City: Provided always, that any sum so appropriated shall be expended in the payment of a Teacher or Teachers, and for no other purpose; And provided also, that a suitable School House shall have been provided for the accommodation

Municipal Council may constitute any School a Model-School.

Proviso.

Proviso as to suitable School House, &c.

accommodation of such School, and gratuitous instruction shall be afforded at such School to all Teachers of Common Schools within such Township, Town or City, during such periods and under such regulations as the Superintendent of such Schools may from time to time direct.

Normal School for Upper Canada: its purposes.

LVI. And be it enacted, That there shall be in Upper Canada a Normal School which shall contain one or more Elementary Model-Schools, in which Teachers of Common Schools shall be instructed in the science of education, and be taught the art of teaching, according to such regulations as the Board of Managers hereinafter provided for may make, and as the Governor in Council shall approve of.

Board of Directors to be appointed for the Normal School.

LVII. And be it enacted, That the Governor of this Province shall have the authority to appoint not more than seven persons (of whom the Superintendent of Schools for Upper Canada shall be one) who shall be a Board of Directors for superintending the Normal School for Upper Canada, and shall hold office during pleasure, and be subject to all lawful orders and directions, in the exercise of their duties, that shall from time to time be issued by the Governor.

Duties of the Board of Directors.

LVIII. And be it enacted, That the duty of the said Board of Directors shall be to adopt needful measures for establishing a Normal School as aforesaid, and for procuring and furnishing suitable buildings for the accommodation of such School and for procuring books and apparatus,—to determine the number of Teachers which shall be in such School, and the compensation which they or others who may be employed therein, shall receive for their services,—to prescribe the conditions on which pupils shall be received into such School,—to make from time to time rules and regulations for the management and good government of such School,—and to do all other things that they may deem expedient to promote the objects and interests of such School.

Meetings of the Board. Chairman, &c.

Special Meetings.

Quorum. Secretary; his duties, &c.

LIX. And be it enacted, That the meetings of such Board shall be held at such place as shall be appointed by the Superintendent of Schools for Upper Canada,—that the first meeting thereof shall be called by the said Superintendent,—that thereat the Board shall appoint a Chairman, who shall hold office during the pleasure of the Board,—that in the absence of such Chairman, a Temporary Chairman may be appointed,—that the said Board shall appoint the times of its ordinary meetings,—that a special or extraordinary meeting may be called at any time by the Chairman of the Board, or by the said Superintendent, but notice thereof must be given in writing to the other members to be present,—that at all meetings of the Board, three members shall be a quorum for the transaction of business,—that the Secretary or Clerk of the Normal School shall be the Recording Clerk to the Board, and shall enter all its proceedings in a book to be kept for that purpose,—and that the expense attending the proceedings of the Board shall be accounted for as part of the contingent expenses of the Normal School.

Appropriation for Normal School continued.

LX. And be it enacted, That a sum not exceeding one thousand five hundred pounds, shall be, as heretofore, yearly allowed for the salaries of Teachers, and for all other contingent expenses of such Normal School; and that a further sum not exceeding one thousand five hundred pounds in the aggregate shall, when required, be expended in procuring suitable buildings and accommodation for the said School.

LXI.

LXI. And be it enacted, That the Board of Directors for the Normal School, shall be a Board of Education for Upper Canada, and its duty as such Board of Education shall be to counsel and direct the Chief Superintendent of Schools for Upper Canada in respect to the duties hereinbefore and hereinafter required of the said Superintendent to discharge.

Directors of Normal School to be a Board of Education for U. C. Their duties.

LXII. And be it enacted, That it may and shall be lawful for the Superintendent of Schools for Upper Canada, by and with the advice of the other Members of the Board of Education for Upper Canada, to appropriate out of the Legislative grant for Common Schools, a sum not exceeding one thousand pounds annually, to the assisting of such persons as may be desirous to be qualified to be Teachers of Common Schools, and shall have been recommended by the Board of Education of any County, as fit and proper to be received into the Normal School, but shall not have means sufficient for their maintenance thereat; Provided always, that any person to be so assisted shall, before he be received into the said School, enter into a bond with two sufficient sureties, which shall be to the Board of Directors of the said School, that he shall, during such time as the Board of Directors of the Normal School shall have stipulated with him, after he shall have received a certificate of qualification, teach a Common School in Upper Canada, or repay the amount which shall have been expended from the aforesaid grant on his account.

Aid to persons wishing to become Teachers.

Proviso: conditions on which such aid may be given.

LXIII. And be it enacted, That it shall and may be lawful for the Board of Education in Upper Canada, to give to any person who shall have satisfactorily complied with such course of studies as shall have been required of him, according to the regulations of the Normal School, a certificate of qualification to teach a Public School in Upper Canada, and such certificate shall, until the end of one year after the date thereof, entitle any Public School that shall have been taught by the holder of such certificate, during not less than six months of such year, to receive such apportionment of public money as by this Act or any other Act or Statute is or shall be directed to be paid to such School.

Board may grant certificates of qualification as Teachers: their effect.

LXIV. And be it enacted, That it shall be the duty of the Board of Directors of the Normal School of Upper Canada, and the duty likewise of the Trustees or Managers of all Trusts for purposes of Education in Upper Canada, (respecting a Report from whom there is no other provision in this Act,) to prepare and transmit annually, on or before the twenty-first day of December, to the Superintendent of Schools for Upper Canada, a detailed account of all moneys received by them for their respective trusts during the year, and of how such moneys shall have been expended, and to give such additional information respecting such trusts and the Institution for which they shall be held, as shall be in their power to give.

Directors of Normal School, and all Trustees for School purposes in U. C., to report and account yearly to the Chief Superintendent.

LXV. And be it enacted, That it may and shall be lawful for the Governor in Council, to expend annually a sum not exceeding twenty-five pounds in any County or Riding in Upper Canada for the encouragement of a Teachers' Institute in each County or Riding, under such regulations as may from time to time be prescribed by the Superintendent of Schools for Upper Canada, by and with the sanction of the Governor in Council.

Aid towards a Teacher's Institute in each County.

Aid towards
Common
School Libra-
ries in U. C.

LXVI. And be it enacted, That it may and shall be lawful for the Governor in Council, to expend annually a sum not exceeding two thousand pounds, for the establishment and support of Common School Libraries in Upper Canada, under such regulations as may from time to time be prescribed by the Superintendent of Schools for Upper Canada, by and with the sanction of the Governor in Council.

Premium to be
given for best
plans for
School
Houses.

LXVII. And be it enacted, That it shall and may lawful for the Governor of this Province, by and with the advice of the Executive Council, at such time as he shall deem expedient to publish in the Canada Gazette, or other Official Gazette, and such other papers as he shall deem necessary to give the same sufficient publicity, that fifty pounds will be given for such three best plans of School Houses as shall, at such time as the Governor shall name, have been submitted and approved of.

Sums appro-
priated by this
Act to be ded-
ucted from
the grant to U.
C.

LXVIII. And be it enacted, That the sums specially authorized to be expended under the provisions of this Act, shall in the order in which provision is made for the expending of them, be deducted from the portion of the Legislative grant for Common Schools, payable to Upper Canada, and be payable in the same order; Provided always, that the amount heretofore appropriated for the support of the Normal, Model and Common Schools in Upper Canada, shall not be lessened by the deduction of such sums therefrom.

Proviso as
to certain
grants.

Recital.

Schools may
be established
for colored
people.

Proviso as to
aids, &c., to
such Schools.

LXIX. And whereas the children of the colored inhabitants of certain portions of Upper Canada, have by causes arising from the prejudices and ignorance of certain other inhabitants of the said portions in the said part of this Province, been prevented from attending the Common Schools of the sections in which they respectively reside: Be it enacted, That it may and shall be lawful for the Municipal Council of the Township, Town or City in which such colored inhabitants reside, to authorize the establishing of any number of Schools for the education of the children of colored people that they may judge expedient; and such Schools shall be subject to the same regulations and obligations that this Act prescribes in respect to all the Common Schools in Upper Canada: Provided always, that such Schools shall be aided from the School Relief Fund of the County in which their Section may be situate, or shall receive their apportionments of the public moneys for the support of Common Schools according to the same ratio according to which such moneys shall be apportioned to the other Common Schools in Upper Canada.

Allowance for
the Teachers
of colored
Schools.

LXX. And be it enacted, That such colored people shall be entitled to receive for the support of the Teachers of their School or Schools such sum or sums of money as they may have paid for School purposes to the Collector of the rates of their Township, Town or City; and it shall be the duty of such Collector to account for the same to the Superintendent of the Schools of such Township, Town or City, in the way and manner hereinbefore prescribed in respect to the School moneys belonging to other Common Schools, and the duty of such Superintendent shall be to pay to the Trustees of such colored School or Schools the sum or sums so belonging to such Teacher, or belonging to such colored School or Schools for the purposes thereof.

Duty of local
Superintend-
ent, as to co-
lored Schools.

LXXI. And be it enacted, That it shall be the duty of the Superintendent of the Common Schools of any Township, Town or City in Upper Canada, in which there may be separate Schools for colored people, to report respecting such Schools in his Annual Reports

Reports to the Municipal Council of his Township, Town or City, and to the Municipal Council of his County, stating, in respect to the colored population of his Township, Town or City, all that he is hereinbefore required to state in respect to the white population thereof; and it shall be the duty also of such Superintendent in whose Township, Town or City there may be colored people, or people who are aborigines of Canada, residing, to communicate in his Reports aforesaid, such information respecting the state of education among such people as may be in his power.

LXXII. And be it enacted, That it shall be the duty of each County Municipal Council in Upper Canada, to cause an Annual Report of the state of the Common Schools of their County to be made in such form as shall be prescribed by the Superintendent of Common Schools for Upper Canada, and to be transmitted at such time as the said Superintendent shall appoint; and also to furnish to the said Superintendent, from time to time, such additional information as he may require; and it shall be the duty of such Superintendent to retain in his hands the sum apportioned to any County, till from the Municipal Council of such County he shall have received such Report and such information as he shall have required therefrom.

Municipal Council to make yearly reports on School matters to the Superintendent for U. C., &c.,

LXXIII. And be it enacted, That each District Superintendent of Common Schools who may be in office on the thirty-first day of December of this present year, shall continue to exercise all the powers which he is now authorized to exercise, and to perform all the duties which he is now required to perform, until the first day of March of the year one thousand eight hundred and fifty; and shall on the said day, deliver into the hands of the Superintendent of Common Schools for each Township, Town or City within his District, all papers in respect to the Common Schools of each, and all moneys (remaining in his hands) which shall have been apportioned to each; and for every refusal to comply with this enactment, on the part of any District Superintendent of Common Schools, he shall be subject to forfeit, to the use of the Township, Town or City interested in such refusal, twice the amount of the sum or sums of money (exclusive of costs) which may be involved in such refusal; and it shall be the duty of the Superintendent of Common Schools for each Township, Town or City interested in such refusal, to sue any such defaulting District Superintendent of Common Schools, for the amount of such forfeit before any Court of Law competent to take cognizance of such cases, and to collect the same with the costs thereon; and the amount which he shall collect, shall, after deducting necessary expenses, be added to the apportionment of School moneys to such Township, Town or City for the then current year, and be distributed therewith to the Common Schools of such Township, Town or City as hereinbefore provided.

Present District Superintendents to deliver all papers, moneys, &c., to the Superintendents appointed under this Act, on 1st March, 1850.

Action given in case of refusal, &c.

LXXIV. And be it enacted, That the Normal School now in operation at Toronto, in Upper Canada, shall for the purposes of this Act, and until otherwise provided for according to the provisions of this Act, continue to be the Normal School for Upper Canada; and the Teachers thereof, and all others being servants employed therein, shall continue to discharge their duties as heretofore, until they shall have been superseded by the appointment of other persons according to the provisions of this Act.

Present Normal School to be that of U. C. until altered, &c.

LXXV. And be it enacted, That the Board of Education for Upper Canada, shall, on the first day of January of the year one thousand eight hundred and fifty-one, deliver to the Superintendent of Schools for Upper Canada, all papers and moneys in their hands

Board of Education for U. C. to deliver its papers and

moneys to Superintendent for U. C. hands or keeping respectively, and belonging to their respective trusts; and the said Superintendent shall hold the same for such trusts respectively, or shall dispose of them as hereinbefore provided, or if there be no provision relative to the disposal of them, then the Governor in Council may give the necessary directions relative thereto.

Teachers to be classified. LXXVI. And be it enacted, That the Teachers who shall receive certificates of qualification under this Act, shall be arranged in three classes, according to their attainments and ability, in such manner as shall be prescribed by the Superintendent of Schools for Upper Canada, with the sanction of the Governor in Council.

After 1st Jan., 1850, no Teacher to be deemed qualified unless he has a certificate. LXXVII. And be it enacted, That from and after the first day of January of the year one thousand eight hundred and fifty-one, no Teacher of a Common School in Upper Canada shall be deemed to be qualified unless he shall have received a certificate of qualification, either from the County Board of Education, signed by the Chairman, or from the Principal of the Normal School of Upper Canada.

School of Art and Design to be established in U. C. when the state of the School Fund shall permit. LXXVIII. And be it enacted, That when, over and above the sums hereinbefore provided for the purpose of Education in Upper Canada, there shall be of that portion of the Legislative grant for Common Schools, which shall belong to Upper Canada, a sum sufficient for the establishing and maintaining of a School of Art and Design for Upper Canada, it shall and may be lawful for the Governor in Council, to appropriate for the establishing and maintaining of such a School, a sum not exceeding in any year, five hundred pounds; and such School shall be in connexion with the Normal School of Upper Canada, and shall be under the control of the Board of Directors of the said Normal School: and such Board shall make regulations for the said School of Art and Design, and shall manage all the affairs thereof, and do in respect thereof in all things as they are hereinbefore required to do in respect to the said Normal School.

Power to Municipal Council to decide certain School matters. LXXIX. And be it enacted, That the Municipal Councils of Townships, Towns and Cities in Upper Canada, shall, within the limits of their respective Townships, Towns and Cities, have competent jurisdiction to decide upon all matters relating to Common Schools, which shall have been submitted to them by the parties interested, and for the deciding of which no provision is hereinbefore made; and the decisions of such Councils shall be final.

Interpretation clause. LXXX. And be it enacted, That the word "Teacher" wherever it occurs in this Act, shall mean female Teacher as well as male Teacher, excepting when it is applied to the Principal or Head Master of a Normal or Model-School in which there may be more than one Teacher; and for all the purposes of this Act, Incorporated Villages shall be implied in the terms, "Township, Town and City," and the word "School," shall likewise mean Schools and shall apply to Schools for females as well as males, and such Villages shall be entitled to all the privileges, and be under all the obligations belonging to Townships, Towns and Cities, by virtue of and under the authority of this Act.

Repeal of former Acts and commencement of this Act. LXXXI. And be it enacted, That upon, from and after the first day of January of the year one thousand eight hundred and fifty, all Laws and Statutes heretofore or now in force for the establishment and maintenance of Common Schools in Upper Canada, or for the amendment of any such Laws or Statutes, shall be repealed; and that

that this Act shall have force and effect, upon, from and after the said day, and not before; Excepting always, that it may and shall be lawful for the Governor, immediately after the passing of this Act, to issue any Commission, or make any appointments, or for the Governor in Council to adopt such preparatory measures for the carrying out the provisions of this Act as he may deem expedient; such Commission, appointments and measures to come into force upon, from and after the said first day of January, one thousand eight hundred and fifty, and not before.

Proviso as to preparatory measures.

CAP. LXXXIV.

An Act to authorize the formation of Joint Stock Companies for the construction of Roads, and other Works in Upper Canada.

[30th May, 1849.]

WHEREAS it is expedient to encourage the construction of sawed, hewed or split Plank, Macadamized or Gravelled Roads, and also Bridges, Piers, Wharves Slides and Dams connected therewith, in Upper Canada, by Companies who may be disposed to subscribe the necessary capital for the completion thereof; And whereas the delay and expense incident to obtaining a special Act of Incorporation from the Legislature for each separate Company, operate as a great discouragement to persons desirous of embarking capital for the formation of such Companies: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the government of Canada*, and it is hereby enacted by the authority of the same, That any number of persons not less than five, respectively, may in Upper Canada, in their discretion, form themselves into a Company or Companies, under the provisions of this Act, for the purpose of constructing in and along any public Road or Highway, allowance for Road or otherwise, any Road or Roads of the kind mentioned in the Preamble to this Act, not less than two miles in length, and also any Bridge or Bridges, Pier or Piers, Wharf or Wharves, Slide or Slides, and Dam or Dams connected therewith in Upper Canada: Provided always, that no such Company shall construct any such road or other such works aforesaid, through, over, along or upon any private property or property of the Crown, without having first obtained the permission of the owner or owners, occupier or occupiers thereof, or of the Crown, so to do, except as hereinafter provided; nor shall any such road be made of a higher grade than one foot elevation to twenty feet along the road, without the sanction of the Chief Engineer superintending Public Works in the neighbourhood thereof; And provided also, that no such Company shall be formed under the provisions of this Act to construct any line of road for which a Charter shall have heretofore been granted, provided such Chartered Company shall have its stock subscribed and be in a course of completing the work for which such Charter shall have been granted, within one year from the passing of this Act, nor shall any private property be taken for any other such work as aforesaid without the consent of the owner, if such owner shall himself commence such work within one year and shall complete the same within two years from the time he shall be notified that a

Company

Preamble.

Companies may be formed for the construction of Plank and other Roads, Bridges, Slides and other works.

Proviso as to taking property.

Grade of Road.

Proviso as to Lines for which other Companies have been Chartered.

Proviso as to
Towns, &c.

Company has been formed for constructing the same, nor shall any property of the Crown be so taken without the approval of the Governor in Council ; And provided also, that no such road shall be constructed or pass within the limits of any City or the liberties thereof, or within the limits of any Incorporated Town or Village, except by special permission under a By-law of such City, Town or Village, to be passed for that purpose ; Provided also, that all bridges in the line of road between the termini of any such road, shall be deemed part of such road to all intents and purposes whatever, unless specially excepted in the Instrument of Association of such Company.

Proviso as to
Bridges on
any Road.

Any Twelve
Freeholders
may oppose the
construction,
&c. of any
Road.

II. Provided always, and be it enacted, That if twelve freeholders resident within half a mile of any line of road proposed to be made, planked, gravelled or macadamized by any Company to be formed under the provisions of this Act, shall give notice in writing to the President, Chairman or other presiding Officer of any Company, or meeting convened to form any such Company, that they intend to oppose the formation or improvement of any such projected line of road, no further action shall be had towards the prosecution of such work until after the then next sitting of the Municipal Council having jurisdiction throughout the line of such intended road, provided such notice shall have been given before any such work shall have been commenced ; Provided always, that when any new road shall have been or be opened, or the line of any old road changed, it shall be lawful for the Municipality having such jurisdiction as aforesaid to pass a By-law directing and permitting the old road or part of a road to be closed up, and embraced within the enclosure of the person or persons from whom ground shall have been taken to form such new road, provided it shall not exclude any person residing on or near the old road from a convenient access to the new road.

Proviso as to
old Roads
ceasing to be
required.

Municipal
Council may
hear and de-
cide upon such
opposition.

III. And be it enacted, That if the Municipal Council of such locality as aforesaid shall, upon such opposition made, pass any By-law prohibiting, varying or altering any such intended line of road, such By-law shall have the same force and effect, and be as binding, effectual and obligatory upon all persons whomsoever and upon any such Company as if the provisions thereof had been inserted in the body of this Act.

Companies to
become incor-
porated on
certain con-
ditions.

Six per cent
of capital to
be paid up.

Their Cor-
porate powers.

IV. And be it enacted, That when any number of persons, not less than five, shall have subscribed a sufficient quantity of stock to amount to a sum adequate in their judgment to the construction of any such road or other work, and shall have executed an Instrument according to the form in the Schedule to this Act contained, and shall have paid to the Treasurer of such intended Company six per cent. upon the capital stock intended by such Company to be raised for the construction of the road or other work contemplated by such Company to be formed as aforesaid, and shall have registered such Instrument, together with a receipt from the Treasurer of such Company for such first Instalment of six per cent, as aforesaid, with the Register of any County through or along the boundary of which such road shall be intended to pass, or where such other work shall be situate, such Company shall thenceforth become and be a Chartered and Incorporated Company, by such name as shall be designated in the Instrument so to be registered as aforesaid, and by such name they and their successors shall and may have perpetual succession, and shall be capable both at law and in equity of suing and being sued, of impleading and being impleaded, answering and being answered unto, defending and being defended in all Courts of Law and Equity and places whatsoever, in all manner of actions, suits, complaints, matters and causes whatsoever ; and they and their successors may have a Common Seal, and the same may

Common Seal.

make,

make, alter and change at their will and pleasure, and that they and their successors by their corporate name shall be capable of purchasing, taking, having, holding and conveying, selling and departing with, any lands, tenements and hereditaments whatsoever which may be or have been thought to be useful and necessary for the purposes of such Corporation.

Holding lands,
&c.

V. And be it enacted, That any such Company, or any other Company heretofore chartered by Act of the Legislature for a like purpose, shall have full power and authority to explore the ground or the country lying between the termini of any road, or supposed to be adapted for the site of any other such work as aforesaid intended to be constructed by any such Company, and to designate and establish, take, appropriate, have and hold to and for the use of them and their successors, the requisite lands upon the line and within the limits of any such road or for any such other work as aforesaid, according to the provisions hereinafter contained for acquiring the same; and to dig, take and carry away stone, gravel, sand, earth and other like materials from any adjoining or neighbouring lands, and also to cut, make and keep in repair upon such adjoining or neighbouring lands, such ditches, drains and water-courses as may be necessary for effectually draining and carrying off the water from any such road or other work; and whenever any such road passes through or by any wood or standing timber, to cut down the trees and under-wood for one hundred feet on each side of the said road, making compensation therefor as hereinafter provided; and for the purpose aforesaid, the said Company and their agents, servants and workmen are hereby authorized and empowered to enter into and upon the lands and grounds of any person or persons, body or bodies corporate or politic.

Powers of
Company to
explore the
country and to
take lands and
materials.

Drainage:

Cutting.

Entering upon
lands.

VI. And be it enacted, That the affairs, stock property and concerns of every such Company which shall or may be formed under the provisions of this Act, shall, for the first year, be managed and conducted by five Directors to be named in the said Instrument so to be registered as aforesaid, and thereafter to be annually elected by the Stockholders according to the provisions of any By-law which the first named Directors or their successors shall from time to time pass for that purpose; and that upon every such election of Directors, each Stockholder shall be entitled to one vote for every share he may hold or be possessed of in the said Company; and any majority of such Directors shall be a *quorum* for the transaction of business.

Affairs of
Companies to
be managed by
five Directors.
How appoint-
ed.

Votes of
Shareholders.

Quorum.

VII. And be it enacted, That if at any time after the formation of any such Company in manner aforesaid, the Directors shall be of opinion that the original capital subscribed will not be sufficient to complete the work contemplated by such Company to be executed, it shall and may be lawful for the said Directors, under a Resolution to be passed by them for that purpose, either to borrow upon the security of the said Company, by bond, or mortgage of the road and tolls to be collected thereon, a sufficient sum of money to complete the same, or to authorize the subscription upon the said original Instrument so to be registered as aforesaid, of such number of additional shares as shall be named in the said Resolution, a copy whereof under the hand of the President and seal of the Company, shall, by the said Register, be annexed to the said original Instrument, upon the same being delivered to him by the said President, at the office of the said Register, who shall thereupon permit such additional subscriptions upon a receipt from the Treasurer of six per cent upon the amount of such subscriptions respectively.

Directors may
authorize an
increase in the
number of
shares when
necessary, or
may borrow
money on
mortgage.

Shares to be of £5 each, and how transferable.

VIII. And be it enacted, That each share in every such Company shall be five pounds, and shall be regarded as personal property, and shall be transferable upon the books of such Company, in such manner as shall be provided by any By-law to be made by the Directors in that behalf.

Companies may sue for amount of calls unpaid.

IX. And be it enacted, That any such Company so to be incorporated as aforesaid, may, in any Court having jurisdiction in matters of simple contract to the amount demanded, sue for, recover and receive of or from any Stockholder in such Company, the amount of any call or calls of stock which such Stockholder may neglect to pay, after public notice thereof in any newspaper published in the District where the Directors shall usually meet for conducting the business of such Company, or if there be no newspaper published in such District, then in some adjoining District.

Notice.

Arbitrators to be appointed in case of owners of property through which the road may pass, &c., disagreeing with the Company.

X. And be it enacted, That if the owner or owners, occupier or occupiers of any land, over, or through, or upon which any such Company as aforesaid may be desirous of constructing any such road or other work, or from which materials are to be taken, or upon which any power given by this Act to the Company is intended to be exercised, shall upon demand made by the Directors of any such Company, neglect or refuse to agree upon the price or amount of damages to be paid for, or for passing through or over such land, and appropriating the same to and for the uses of any such Company, or for the exercise of any such power as aforesaid, it shall and may be lawful for the said Company to name one Arbitrator, and for the owner or occupier of such land so required, or with regard to which such power is intended to be exercised as aforesaid, to name another Arbitrator, and for the said two Arbitrators to name a third, to arbitrate upon, adjudge and determine the amount which the said Company shall pay before taking possession of such land, or exercising such power as aforesaid; and upon such sum being ascertained, due attention being had by the Arbitrators in ascertaining the same, to the benefits to accrue to the party requiring compensation, by the construction of the said road or other work, it shall be lawful for the said Company to tender such sum to the said party claiming compensation, who shall thereupon execute a conveyance to the said Company, or such other document as may be requisite, and the said Company shall, after such tender, whether such conveyance or document be executed or not, be fully authorized to enter upon and take possession of such land to and for the uses of the said Company, and to hold the same, or to exercise such power as aforesaid, in such and the like manner as if such conveyance thereof or other document had been executed as aforesaid: Provided always, that if any such owner or occupier shall neglect to name an Arbitrator for the space of twenty days after having been notified so to do by the Company, or if the said two Arbitrators do not agree upon such third Arbitrator, within twenty days after the appointment of the second Arbitrator, then upon the application of the said Company or of the other party, the Judge of the District Court holden within the District, shall nominate one of the Councillors of one of the Townships next adjacent to that in or along which the land shall be situate, which it is proposed to take, or with regard to which such power is intended to be exercised as aforesaid, to be either the second or the third Arbitrator, in lieu of the one so to be appointed and named, but not appointed or agreed upon by the party or by the two first named Arbitrators as aforesaid, and any award made by a majority of the said Arbitrators shall be as binding as if the three Arbitrators had concurred in and made the same: Provided, that no road or other such work as aforesaid shall be made through or upon any pleasure ground, garden, yard or orchard, or materials taken therefrom, nor shall any timber be taken from any enclosed lands, without the consent of the owner.

Mode of computing damages, &c.

Tender or payment.

Proviso: if the party shall neglect to name an arbitrator, or the arbitrators cannot agree on a third.

Award may be made by any two.

Proviso as to gardens, yards, &c.

XI. And be it enacted, That whenever any lands or grounds required by any such Company, for the purposes of any road or other such work, or with regard to which any such power is to be exercised as aforesaid, are held or owned by any person or persons, bodies politic, corporate or collegiate, whose residence may not be within this Province, or unknown to the said Company, or where the titles to any such lands or grounds may be in dispute, or where such lands may be mortgaged, or when the owner or owners of such lands or grounds are unable to treat with the said Company for the sale thereof, or the exercise of any such power as aforesaid by the Company, or to appoint Arbitrators as aforesaid, it shall and may be lawful for the said Company to nominate one indifferent person, and for the Judge of the District Court for the District in which the lands are situate, on the application of the said Company, to nominate and appoint one other indifferent person, who, together with one other person to be chosen by the persons so named, before proceeding to business, or, in the event of their disagreeing as to the choice of such other person, to be appointed by any such Judge as aforesaid, before the others proceed to business, shall be Arbitrators, to award, determine, adjudge and order the respective sums of money which the said Company shall pay to the respective parties entitled to receive the same, for the said lands or grounds, or damages as aforesaid, and the decision of the majority of such Arbitrators shall be binding: which said amount so awarded the said Company shall pay or cause to be paid to the several parties entitled to the same when demanded; and also that a record of such award or arbitration shall be made up and signed by the said Arbitrators, or a majority of them, specifying the amount awarded and the costs of such arbitration which may be settled by the said Arbitrators, or a majority of them, which record shall be deposited in the Registry Office of the County in or along which such lands or grounds are situate: and that the expenses of any Arbitration under this Act, shall be paid by the said Company, and by them deducted from the amount of such award, on payment thereof to the parties entitled to receive the same, if the Company shall before the appointment of their Arbitrator, have tendered an equal or greater sum than that awarded by the Arbitrators, and otherwise by the opposite party, and the Arbitrators shall specify in their award by which of the parties the said costs are to be paid: And provided also, that all lands or grounds which shall hereafter be taken by any such Company for the purposes of any road or other such work, and which shall have been purchased and paid for by any such Company in the manner hereinbefore provided, shall become and thenceforward shall continue to be the property of such Company free from all mortgages, incumbrances and other charges.

How Arbitrators shall be appointed when the owners of the lands are absent, or unable to sell, or the lands are mortgaged, &c.

Amount of award to be paid forthwith. Award to be registered.

By whom the costs shall be paid.

Proviso: Lands taken to be free of incumbrances.

XII. And be it enacted, That if any such road shall pass through any tract of land or property belonging to or in possession of any tribe of Indians in this Province, or if any property belonging to them be taken or any act occasioning damage to their properties or their possessions shall be done under the authority of this Act, compensation shall be made to them therefor, in the same manner as is provided with respect to the property, possession or rights of other individuals; and that whenever it shall be necessary that Arbitrators be chosen by the parties for settling the amount of such compensation, the Chief Officer of the Indian Department, within this Province, is hereby authorized and required to name an Arbitrator on behalf of the said Indians, and the amount which shall be awarded in any case shall be paid where the said lands belong to any tribe or body of Indians, to the said Chief Officer, for the use of such tribe or body.

Case of lands belonging to Indians provided for.

Meetings and proceedings of the arbitrators.

XIII. And be it enacted, That the Arbitrators so appointed shall fix a convenient day for hearing the respective parties, and shall give eight days' notice at least of the day and place, and having heard the parties or otherwise examined into the merits of the matters so brought before them, the said Arbitrators, or a majority of them, shall make their award or arbitrament thereupon in writing, which award or arbitrament shall be final as to the amount so in dispute as aforesaid.

Election of President and appointment of Officers.

XIV. And be it enacted, That it shall be lawful for the Directors of any such Company to elect one of their number to be the President, and to nominate and appoint such and so many officers and servants as they shall deem necessary for performing the duties required of them by the said Company, and in their discretion to take security from them or any of them for the due performance of his or their duty, and that he or they shall duly account for all moneys coming into his or their hands to the use of any such Company.

Tolls, how to be fixed paid and levied.

XV. And be it enacted, That it shall and may be lawful for the President and Directors of any such Company from time to time to fix, regulate and receive the tolls and charges to be received from all persons passing and re-passing with horses, carts, carriages and other vehicles and for cattle driven upon, over and along any road, or from all persons passing over any bridge with or without any such carriages or animals as aforesaid, or using any work constructed, made and used by such Company under and by virtue of the provisions of this Act: Provided always, that so soon as two or more miles of any such road shall have been completed tolls may be taken therefor, but on no other work shall tolls be taken until the same shall be completed.

Proviso: when tolls may be taken.

Rate of tolls limited on Roads.

XVI. And be it enacted, That the amount of tolls hereby authorized to be levied at any gate by any such Company, to be formed and incorporated under the provisions of this Act, upon any road constructed by such Company, shall not for each time of passing, whether loaded or otherwise, exceed an aggregate sum calculated at the rate of one penny half-penny per mile, from the gate required to be passed to the last gate in the direction whence any person may have come, for any vehicle drawn by two horses or other cattle; and for any vehicle drawn by more than two cattle, one half-penny per mile for every additional one; for every vehicle drawn by one horse, one penny per mile; for every score of sheep or swine and for every score of neat cattle, one half-penny per mile; for every horse and rider or every led horse, one half-penny per mile.

Directors to report annually to the Municipality the amount received and expended, &c.

XVII. And be it enacted, That it shall be the duty of the Directors of every Company incorporated under this Act, to report annually, at some time during the month of January in each year, to the Municipality having jurisdiction within the locality through or along the boundary of which such road shall pass, or wherein such other work may be constructed, under the oath of the Treasurer of such Company, the cost of their work, the amount of all money expended, the amount of their capital stock, and how much paid in; the whole amount of tolls expended on such work; the amount received during the year for tolls, and from all other sources, stating each separately; the amount of dividends paid, and the amount expended for repairs, and the amount of debts due by such Company, specifying the object for which such debts respectively, were incurred; and every such Company, shall keep regular books of account, in which shall be entered a correct statement of the assets, receipts and disbursements.

Company to keep regular books open to

disbursements of such Company, which shall be at all times open to the inspection and examination of any person or persons, who may for that purpose be appointed by the Municipality, having jurisdiction as aforesaid; and every such Inspector shall have the right of taking copies or extracts from the same, and of requiring and receiving from the keeper or keepers of such books, and also from the President and each of the Directors of such Company, and all the other officers and servants thereof, all such information as to such books and the affairs of such Company generally, as such Inspector or Inspectors may deem necessary for the full and satisfactory investigation into and report upon the state of the affairs of such Company, so as to enable such Inspector or Inspectors to ascertain whether the tolls levied upon such work are greater than this Act allows to be levied as aforesaid.

persons appointed by Municipality, &c.

XVIII. And be it enacted, That it shall and may be lawful for the Directors of any such Company to call in and demand from the Stockholders of the said Company, respectively, all such sum or sums of money by them subscribed, at such times and in such payments or instalments as the said Directors shall deem proper, under the penalty of forfeiting the shares of stock subscribed for and all previous payments made thereon, if payment shall not be made by the Stockholders within ninety days after a personal demand, or alter notice requiring such payment shall have been published for six successive weeks in the newspaper or one of the newspapers nearest the place where the Directors of the said Company shall usually meet for conducting the business of the said Company.

Directors may call in sums subscribed under penalty of forfeiture of shares subscribed for.

XIX. And be it enacted, That every such road or other such work as aforesaid, and all the materials which shall from time to time, be got or provided for constructing, building, maintaining or repairing the same, and all toll-houses, gates and other buildings constructed or acquired by and at the expense of any such Company acting under the provisions of this Act, and used for their benefit and convenience, shall be vested in such Company and their successors.

Roads, works and materials vested in Companies, and their successors.

XX. And be it enacted, That every such Company shall have full power and authority to erect such number of toll-gates or side-bars in, along or across the said roads, and upon or at any work constructed under this Act, respectively, and fix such tolls, not exceeding the rate aforesaid, to be collected at each gate or bar, as they may deem fit and expedient (which tolls may be altered from time to time as circumstances may require,) and to erect and maintain such toll-houses, toll-gates and other buildings and erections which may seem necessary and convenient for the due management of the business of every such Company respectively; Provided always, that no toll shall be exacted for merely crossing any road.

Toll-gates may be erected.

Proviso.

XXI. And be it enacted, That every such Company so to be incorporated as aforesaid, shall be bound and is hereby required to complete each and every road not more than five miles in length, and any other work undertaken by them, and for the completion whereof they shall have become incorporated as aforesaid, within two years from the day of their becoming incorporated under this Act, in default whereof they shall forfeit all the corporate and other powers and authority which they shall in the mean time have acquired, and all their corporate powers shall thenceforth cease and determine, unless further time be granted by a By-law of the Municipality having jurisdiction as aforesaid.

Roads, &c., to be completed by Companies within a certain time after becoming incorporated. Penalty for default.

Penalty on persons injuring roads, or other works of any Company.

Penalty on persons injuring roads, &c.

How enforced. Offender to pay all damages as well as the penalty.

Fine to be payable either in money or labor.

Fines, how levied.

XXII. And be it enacted, That if any person or persons shall in any way injure, cut, break down or destroy any part of any such road, bridge or other such work as aforesaid, or any toll-gate or toll-house, building or other erection in, upon or near any such road or work, and belonging to or used for the convenience of any such Company under the provisions of this Act, every such person so offending, and being lawfully convicted thereof, shall be deemed guilty of a misdemeanor, and shall be punished by fine and imprisonment; and if any person or persons shall remove any earth, stone, plank, timber or other materials used or intended to be used in or upon the said road, for the construction, maintenance or repair thereof, or shall drive any loaded wheel carriage or other loaded vehicle upon that part of any of the roads constructed under the authority of this Act, or by any Incorporated Company under the authority of any other Act of the Legislature of this Province, between the stones, plank or hard road and the ditch, further than may be necessary in passing any other vehicle or in turning off or upon such road, or shall cause any injury or damage to be done to the posts, rails or fences, or shall haul or draw, or cause to be hauled or drawn upon any part of the roads constructed as aforesaid, any timber, stone, or other thing which shall be carried principally or in part upon wheeled carriages or sleighs, so as to drag or trail upon such road to the prejudice thereof, or if any person shall leave any wagon, cart, or other carriage whatever, upon such road without some proper person in the sole custody or care thereof, longer than may be necessary to load and unload the same, except in case of accident, and in cases of accident for any longer time than may be necessary to remove the same, or shall lay any timber, stones, rubbish or other thing whatever upon such road, to the prejudice, interruption and danger of any person travelling thereon, or if any person shall, after having blocked or stopped any cart, wagon, or other carriage in going up a hill or rising ground, cause or suffer to lie and remain on such road, any stone or other thing with which such cart or carriage shall have been blocked or stopped, or if any person shall pull down, damage, injure or destroy any lamp or lamp posts put up, erected or placed in or near the side of such road or toll-houses, erected thereon, or shall wilfully extinguish the light of any such lamp, or if any person shall wilfully pull down, break, injure or damage any table of tolls, put up or fixed at any toll-gate or bar on any part of such road, or shall wilfully or designedly deface or obliterate any of the letters, figures or marks thereon, or on any finger post, or any mile post or stone; or if any person shall throw any earth, rubbish or other matter or thing into any drain, ditch, culvert or other water-course made for draining any such road, or if any person shall without permission, carry away any stones, gravel, sand or other materials, dirt or soil from any part of any such road, or dig any holes or ditches on the allowance for the same, or shall forcibly pass or attempt to pass by force any of the toll-gates set up by any such Company, or to use the work constructed by the Company without having first paid the toll fixed by the Directors of such Company to be received at any such gate, such person shall, upon conviction thereof in a summary way before any Justice of the Peace in or near the place where the injury shall have been done, be sentenced to pay all damages sustained by such Company, to be ascertained by the said Justice upon the hearing of the said complaint, and also to pay a fine of not more than fifty shillings nor less than five shillings; such damages and fine to be paid within a time to be limited by the said Justice, and in default thereof the same shall be levied as next hereinafter is provided.

XXIII. And be it enacted, That the fines and forfeitures authorized to be summarily imposed by this Act shall and may be levied and collected by distress and sale of the offender's

offender's goods and chattels, under the authority of any Warrant or Warrants of Distress for that purpose to be issued by the Justice before whom the conviction shall have been had ; and in case there shall be no goods or chattels to satisfy such Warrant or Warrants, such offender or offenders shall and may be committed to the Common Gaol of the District for any period not exceeding one month.

Imprisonment for want of distress.

XXIV. And be it enacted, That if any person or persons shall, after proceeding on any such road with any wagon, carriage or other vehicle, or animal liable to pay toll, turn out of the said road into any other road, and shall enter the said road beyond any of the said gate or gates without paying toll, whereby such payment shall be evaded, such person or persons shall for every such offence forfeit and pay the sum of ten shillings, which said sum shall be expended on the said road or towards the discharge of any debts due by the Company; and any one Justice of the Peace for the District in which such part of the said road is situate, shall, on conviction of such offender, fine such offender in the said penalty, and shall cause the same to be levied as aforesaid.

Penalty on persons turning out of road to evade toll.

How enforced.

XXV. And be it enacted, That if any person or persons occupying or possessing any enclosed lands near any toll-house or toll-gates, which shall be erected in pursuance of this Act, shall knowingly permit or suffer any person or persons to pass through such lands, or through any gate, passage or way thereon, with any carriage, horse, mare, gelding or other animal liable to the payment of toll, whereby such payment shall be avoided, every person or persons so offending, and also the person riding or driving the animal or animals or carriage whereon such payment is avoided, being thereof convicted, before any one Justice as aforesaid, shall for every such offence, severally incur a penalty not exceeding twenty shillings, which shall be laid out in improving such road.

Penalty on persons assisting others to evade tolls.

XXVI. And be it enacted, That it shall be lawful for any Municipal Body Corporate, having jurisdiction within the locality through or along the boundary of which any such road shall pass, or in which any such work as aforesaid is to be constructed, to subscribe for, acquire, accept and hold, and to depart with and transfer Stock in any Company to be formed under the authority of this Act, or by any Company heretofore chartered by Act of the Legislature for a like purpose, and from time to time to direct the Mayor, Warden or other Chief Officer thereof, on behalf of such Municipality, to subscribe for such Stock in the name of such Municipality, and to act for and on behalf of such Municipality in all matters relative to such Stock and the exercise of the rights of such Municipality as a Stockholder, and the Mayor, Warden or other Chief Officer shall, whether otherwise qualified or not, be deemed a Stockholder in the Company, and may vote and act as such, subject always to such rules and orders in relation to his authority as shall be made in that behalf by such Municipality by their By-laws or otherwise, but acting according to his discretion in cases not provided for by such Municipality; and it shall be lawful for such Municipality to pay for, or to pay all instalments upon the Stock they shall subscribe for and acquire, out of any moneys belonging to such Municipality and not specially appropriated to any other purpose, and to apply the moneys arising from the dividends or profits on the said Stock or from the sale thereof, to any purpose to which unappropriated moneys belonging to such Municipality may lawfully be applied.

Municipalities may acquire stock in Companies formed under this Act.

Who shall vote, &c., on such stock.

As to payment of such subscription, &c.

XXVII. And be it enacted, That it shall also be lawful for the Municipality of any locality through or along the boundary of which any such road shall pass, or within which

Municipal bodies may lend money to

such Companies.

which any such work as aforesaid shall be constructed, to loan money to the Company authorized to make such road or construct such work, or to any Company heretofore chartered by Act of the Legislature for a like purpose, and out of any moneys belonging to the Municipality and not appropriated to any other purpose, and to effect such loan upon such terms and conditions as may be agreed upon between such Company and the Municipality making such loan, and to recover the money so loaned, and to appropriate the money so recovered to the purposes of such Municipality.

Recovery thereof.

Twenty-one years after the roads, &c., are completed, all the Stock may be purchased by the Municipality.

Value how ascertained.

XXVIII. And be it enacted, That after twenty-one years from the time of completing any such road or other work as aforesaid, it shall and may be lawful for any Municipal authority representing the interests of the locality through or along the boundary of which any such road shall pass, or in which the work shall be situate, to purchase the stock of such Company at the current value thereof at the time of purchase, (to be ascertained by Arbitrators to be appointed and to act in the manner hereinbefore provided in other cases, if the Company and the Municipality cannot agree upon such value,) and to hold the same for the use and benefit of the said locality, and such Municipal authority shall thenceforth stand in the place and stead of the said Company, and shall possess all such powers and authority as the said Company shall have theretofore possessed and exercised.

What it shall be necessary to aver in actions for sums subscribed for.

XXIX. And be it enacted, That in any action or suit to be brought by any such Company against any Stockholder, to recover any money due for any call, it shall not be necessary to set forth the special matter, but it shall be sufficient for the Company to aver that the Defendant is the holder of one share or more (stating the number of shares) in the stock of the Company, and that he is indebted to the Company in the sum of money to which the calls in arrear shall amount in respect of one call or more upon one share or more (stating the number and amount of each of such calls) whereby an action hath accrued to the Company by virtue of this Act.

What it shall be necessary to prove in such actions.

XXX. And be it enacted, That on the trial or hearing of any such action, it shall be sufficient for the Company to prove that the Defendant at the time of making such call was a holder of one share or more in the undertaking (and when there has been no transfer of the shares, then the proof of subscription to the original agreement to take stock shall be sufficient evidence of holding stock to the amount subscribed,) and that such call was in fact made, and such notice thereof given as is required, and it shall not be necessary for the Company to prove the appointment of the Directors who made such call or any other matter whatever, and thereupon the Company shall be entitled to recover what shall be due upon such call, with interest thereon, unless it shall appear that due notice of such call was not given.

Stockholders may be witnesses.

XXXI. And be it enacted, That in any action or suit brought by or against any such Company upon any contract or for any matter or thing whatsoever, any Stockholder or any Officer or Servant of the Company shall be competent as a witness, and his testimony shall not be deemed inadmissible on the ground of interest or of his being such Servant or Officer.

Limitation of suits for things done under this Act.

XXXII. And be it enacted, That if any action or suit shall be brought against any person or persons for any matter or thing done in pursuance of this Act, such action or suit shall be brought within six calendar months next after the fact committed, and not

not afterwards, and the defendant or defendants in such action or suit may plead the general issue only, and give this Act and the special matter in evidence on the trial.

XXXIII. And be it enacted, That all persons, horses or carriages going to or attending or returning from any funeral, or any person with horse or carriage going to or returning from Divine Service on the Lord's Day, shall pass the gates on any road made or improved under the authority of this Act, free of toll.

Exemptions from toll.

XXXIV. And be it enacted, That whenever any road to be constructed under the authority of this Act, or a road already constructed under the authority of any Act of the Legislature of the Province, shall intersect a road constructed by another Chartered Company, no higher rate of toll shall be demanded from the persons travelling along the said last mentioned road, for the distance travelled between such intersection and either of its termini than the rate per mile charged by the said Company for travelling along the entire length of their road so intersected.

What rate of toll may be demanded on roads intersected by roads made under this Act.

XXXV. And be it enacted, That after any road, bridge or other such work as aforesaid, constructed by any Company under the authority of this Act, shall have been completed, and tolls been taken thereon, it shall be the duty of the said Company to keep the same in good and sufficient repair, and in case any such road, bridge or work shall, by any such Company, be allowed to fall into decay and get out of repair, such Company may be indicted at any Court of General Sessions of the Peace or other Court of Superior Jurisdiction within or along the boundary of any District where such road, bridge or work shall be so out of repair as aforesaid, and upon being convicted, the Court before whom such prosecution shall be had, shall direct such Company to make the necessary repairs, for the want whereof such prosecution shall have been commenced, within such time as to such Court shall seem reasonable, and that in default thereof, such Company shall be declared to be dissolved, and such road, bridge or work shall thenceforth be vested in Her Majesty, Her Heirs and Successors, to and for the use of the public, in like manner as any public and common highway or public work, and shall thenceforth be subject to all the laws affecting public highways and public works, and the powers of such Corporation shall thenceforth vest in the Municipality having jurisdiction as aforesaid, which shall thereupon take on itself the order and management of the said road as the said Company had theretofore done.

Companies to keep roads in sufficient repair.

Indictment for default.

Dissolution for default to repair, &c.

XXXVI. And be it enacted, That notwithstanding the privileges that may be conferred by this Act, the Legislature may at any time hereafter in their discretion make such additions to this Act, or such alterations of any of its provisions as they may think proper, for affording just protection to the public or to any person or persons, body corporate or politic, in respect to their estate, property or right or interest therein, or any advantage, privilege or convenience connected therewith, or in respect to any way or right of way, public or private, that may be affected by any of the powers, given to any such Corporation.

Reservation of the right of the Legislature to amend or alter this Act.

SCHEDULE.

Be it remembered, that on this _____ day of _____ in the year of Our Lord, one thousand eight hundred and _____, We, the undersigned Stockholders, met at _____, in the _____ County of _____, in the Province of Canada, and resolved to form ourselves into a Company, to be called (*here insert the Corporate name intended to be taken by the Company,*) according to the provisions of a certain Act of the Parliament of this Province, intituled, *An Act, &c. (insert the title of this Act,)* for the purpose of constructing a Plank Road (*or Macadamized or Gravelled Road, or both, as the case may be,*) from (*the commencement of the intended Road*) to (*the termination thereof,*) or a Bridge, Slide, Wharf, Pier or other such work as aforesaid, describing the nature, extent and situation thereof,) and we do hereby declare that the Capital Stock of the said Company shall be _____ pounds, to be divided into _____ shares, at the price or sum of five pounds each; and we, the undersigned Stockholders, do hereby agree to take and accept the number of shares set by us opposite to our respective signatures, and we do hereby agree to pay the calls thereon, according to the provisions of the said in part recited Act, and of the Rules, Regulations, Resolutions and By-laws of the said Company, to be made or passed in that behalf; and we do hereby nominate (*the names to be here inserted*) to be the first Directors of the said Company.

NAME.	No. OF SHARES.	AMOUNT.

CAP. LXXXV.

An Act to amend the several Laws therein mentioned, relative to the appointment and duties of Inspectors of Weights and Measures, in Upper Canada.

[25th April, 1849.]

Preamble.

WHEREAS the Laws now in force in Upper Canada, with respect to the appointment and duties of Inspectors of Weights and Measures, are found to require amendment: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council, and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under

under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada and for the government of Canada*, and it is hereby enacted by the authority of the same, That the fourth, fifth and seventh sections of the Act of Legislature of Upper Canada, passed in the fourth year of the Reign of His Majesty King George the Fourth, and intituled, *An Act to repeal an Act passed in thirty-second year of His Majesty's Reign, intituled, An Act to establish the Winchester Measure, and a Standard for other Weights and Measures throughout this Province, and to appropriate a sum of money for the purpose of obtaining a Standard for Weights and Measures for this Province*,—and the first and second sections of the Act of the said Legislature, passed in the third year of Her Majesty's Reign, and intituled, *An Act to alter and amend an Act passed in the thirty-second year of the reign of His late Majesty King George the Third, intituled, An Act to establish the Winchester Measure, throughout this Province*,—shall be, and the same are hereby repealed.

Sections 4, 5 and 7 of Act of U.C., 4 G. 4, c. 16, and sections 1 and 2 of Act of U. C., 3 V. c. 17, repealed.

II. And be it enacted, That from and after the passing of this Act, the several Inspectors of Licenses in Upper Canada shall have the charge of the Standard Weights and Measures within their respective Districts or Divisions, and be Inspectors of Weights and Measures, within the same: Provided always, that each and every the Inspector or Inspectors so appointed or to be appointed as aforesaid, before or immediately upon entering upon the duties of his office, shall take and subscribe to the following oath in open Quarter Sessions:

Inspectors of Licenses in U. C., to be also Inspector of Weights and Measures.

They shall take an oath of Office.

“ I. A. B., do hereby promise and swear that I will carefully preserve all such Weights and Measures as shall be given me in charge or for my use as Inspector, as a Standard for the District (or Division, *as the case may be*) of _____ and that I will honestly and faithfully discharge the duties of Inspector of Weights and Measures, for such District (or Division) pursuant to the true intent and meaning of the several laws in force in Upper Canada, according to the best of my abilities and knowledge, and deliver them over to my successor in office, duly appointed for that purpose, when required so to do. So help me God.”

The oath.

III. And be it enacted, That it shall be the duty of each Inspector, at all proper times when application shall be made to him for that purpose, carefully to examine and compare any and all Weights and Measures which shall be presented to him for that purpose, within his District or Division as such Inspector, with the Standard provided by law, and when found of the true Weight and Measure, to mark, stamp or brand the same, (if a Measure, as near the two ends, top and bottom, as may be) with the stamp or brand heretofore provided or to be provided for that purpose, or with the initials of the name of the then reigning Sovereign.

Inspector to inspect (and mark if correct) all Weights and Measures submitted to him.

IV. And be it enacted, That it shall be the duty of each and every such Inspector of Weights and Measures, once in each year or oftener, upon such day or days, and in such place or places within their respective Districts or Divisions, as shall by the Magistrates in Quarter Sessions, at least once and not oftener than twice in each year, be named and appointed, to attend with the stamps and copies of such Standard Weights and Measures in his custody, to examine and compare, and stamp if found correct, all such Weights and Measures as shall be brought to him for that purpose, and that every Storekeeper, Shopkeeper, Miller, Distiller, Butcher, Broker, Huckster or other trading person,

Inspector to attend for that purpose at such times and places as the Magistrates in Q. S. shall appoint.

person,

person, Wharfinger or Forwarder in any District or place in Upper Canada who shall, two months after the appointment of an Inspector therefor, use any Weight or Measure, which has not been duly stamped according to Law, or which shall be found light or otherwise unjust, shall, on conviction, forfeit a sum of not more than five nor less than two pounds, to be recovered under the provisions of the fifth section of this Act; And every such light or unjust Weight and Measure so used shall on being discovered, by any Inspector so appointed, or to be appointed as aforesaid, be seized, and on conviction of the person using the same, shall be forfeited, and the same be broken up by the Inspector.

Inspector may enter shops, &c., to examine Weights and Measures.

Forfeiture of false or unstamped Weights and Measures.

Further penalty.

How recovered and applied.

Proviso.

Punishment of persons forging stamps, &c.

V. And be it enacted, That it shall be lawful for every such Inspector at all reasonable times to enter any shop, store, warehouse, stall, yard or place whatsoever within his District or Division, where any commodity shall be bought, sold or exchanged, weighed, exposed or kept for sale, or shall be weighed for conveyance or carriage, and there to examine all Weights, measures, Steel-yards or other Weighing Machines, and to compare and try the same with the copies of the Standard Weights and Measures provided by Law; and if upon such examination it shall appear that the said Weights or Measures or any or either of them are unstamped or are light or otherwise unjust, the same shall be liable to be seized and forfeited, and the person or persons in whose possession the same shall be found, shall, on conviction, forfeit a sum not exceeding two pounds for the first and five pounds for every subsequent offence, which penalty together with all reasonable costs, shall be recoverable before any Justice of the Peace, on the oath of the Inspector or of any other credible witness, and shall if not forthwith paid be levied by distress and sale of the goods and chattels of the offender, and in default of distress such offender shall be committed to the Common Gaol of the District wherein such conviction shall take place for a term not exceeding one month; and such penalty, and all other penalties imposed by this Act, when recovered, shall belong to the Crown for the public uses of the Province, and shall be paid over to the Inspector, and by him accounted for in the same manner as other public moneys coming into his hands by virtue of his office; and any person or persons who shall have in his, her or their possession a Steel-yard or other Weighing Machine which shall on such examination be found incorrect or otherwise unjust, or who shall neglect or refuse to produce for such examination when thereto required, all Weights, Measures, Steel-yards or other Weighing Machines, which shall be in his, her or their possession, or shall otherwise obstruct or hinder such examination, shall be liable to a like penalty to be recovered and applied as aforesaid: Provided always, that no such penalty shall be incurred in any Division, District or Locality, until two months at least after a Standard of Weights and Measures shall have been received by the Inspector appointed therefor according to law.

VI. And be it enacted, That if any person or persons shall make, forge or counterfeit, or cause or procure to be made, forged or counterfeited, or knowingly act or assist in the making, forging or counterfeiting any stamp or mark now used, or which may hereafter be legally used for the stamping or making of any Weights or Measures in any District or place in Upper Canada, each such offender shall be guilty of a misdemeanor, and being convicted thereof, shall be liable, at the discretion of the Court, to be fined and imprisoned in the Common Gaol of the District where the conviction shall take place, provided such fine shall not exceed twenty pounds, and that such imprisonment shall not exceed three calendar months; and if any person shall knowingly sell, alter, dispose of or expose to sale any Weight or Measure, with such forged or counterfeit

counterfeit stamp or mark thereon, every person so offending shall, for every such offence, forfeit, on conviction, a sum not exceeding ten pounds, or less than forty shillings, to be recovered under the provisions of the fifth section of this Act; and that all Weights and Measures with such forged or counterfeited stamps or marks shall be forfeited, and the same be broken up by the Inspector.

VII. And be it enacted, That if any Inspector shall stamp, brand or mark any Weight or Measure without having first duly compared and verified the same with and by the Standard Weights and Measures provided by Law for that purpose, or shall be guilty of a breach of any duty imposed upon him by this Act, he shall on conviction forfeit a sum not exceeding five pounds to be recovered and applied as aforesaid.

Penalty on Inspector stamping Weights or Measures without due examination.

VIII. And be it enacted, That for every Weight or Measure marked or stamped by any such Inspector, he shall be entitled to demand and receive six pence, and no more.

Fee to Inspector.

IX. And whereas provision by Law is now made for procuring one set of Standard Weights and Measures only for each of the several Districts in Upper Canada; and whereas in several of such Districts a Division has been made for revenue or other purposes, and an Inspector appointed for each of such Divisions: Be it therefore enacted, That in all such cases and in case of any Division hereafter to be made, the Standard Weights and Measures for such Districts respectively shall be lodged for safe custody with such Inspector as the Magistrates in Quarter Sessions assembled may direct, for the use however of the several Inspectors within such Districts respectively: Provided always, that in the exercise of the various duties and functions imposed by this Act, every such Inspector shall be confined to his own Division.

Recital.

With whom the Standards shall be deposited when there is more than one Inspector in a District.
Proviso.

X. And be it enacted, That every such Inspector shall give one month's notice in one or more newspapers of the District or Division in which he is acting, from time to time, and at least once in each year, of the different days and places to be appointed as aforesaid by the Magistrates in Quarter Sessions, when and where he will attend with the stamps and copies of the Standard Weights and Measures, to examine, compare and stamp all Weights and Measures made use of in buying or selling, if found correct.

Notice of Inspector's attending to stamp, &c.

XI. And be it enacted, That every Inspector of Weights and Measures appointed under the provisions of the Acts hereinbefore mentioned and in part repealed, shall, on reasonable demand, hand over to the proper Inspector appointed under the provisions of this Act, all and every Standard Weight and Measure, and all and every balance, and all and every stamp, brand or other machine, or copy thereof, in his custody as such Inspector, under penalty of five pounds, for every refusal, to be recovered and applied in the same manner as other penalties imposed arising under the provisions of this Act.

Present Inspectors to give over the Standards in their possession to the Inspectors under this Act.

Penalty for refusal.

XII. And be it enacted, That whenever any Municipal Body, now or hereafter to be formed in or for any City, Town or Incorporated Village in Upper Canada, shall appoint an Inspector of Weights and Measures for such City, Town or Incorporated Village, every such Inspector may apply to the Inspector appointed or to be appointed under the previous provisions of this Act, for the District, Division or County, within which such City, Town or Incorporated Village shall be situate, to adjust a copy of any of the Standard Weights and Measures for the use of such City, Town or Incorporated Village, by the Standard Weights and Measures in possession of or used by such Inspector; and

Municipal bodies appointing Inspectors may have copies of Standards adjusted by the District Inspector.

upon

Fees for stamping the same.
Duties and powers of District Inspector to be transferred to the Inspector for the Municipality.

upon producing to such Inspector such Weights and Measures as shall be required for such City, Town or Incorporated Village, it shall be the duty of the said Inspector carefully to compare and adjust, and to seal, stamp or mark the same as provided by law; and that the Inspector, for so doing, shall be entitled to the same fees or charges as for the like services in other cases: Provided always, that whenever any such Municipal Body shall have appointed an Inspector of Weights and Measures, and obtained such copies of the Standard Weights and Measures for the use of any such City, Town or Incorporated Village, the powers, duties and liabilities of the Inspectors appointed or to be appointed under the previous provisions of this Act, as to such City, Town or Incorporated Village, shall cease, and thenceforth devolve upon and be exercised by the Inspector thereof.

Standards to be delivered over to successors in Office.

Action given for Standards not so delivered.

XIII. And be it enacted, That whenever any Inspector of Weights and Measures shall be removed from office, or shall resign or remove from the place for which he shall have been appointed, it shall be the duty of the person so removed, resigning or removing, to deliver to his successor in office all the beams, stamps and Standard Weights and Measures in his possession as such Inspector, and that in case of the death of such Inspector, his representatives shall in like manner deliver the same to his successor in office, and that in case of refusal or neglect to deliver such Standards entire and complete, in addition to the penalties hereinbefore provided, the successor in office may maintain an action on the case, against the person or persons so refusing or neglecting, and recover double the value of such Standards as shall not have been delivered, and in every such action in which judgment shall be rendered for the plaintiff, he shall recover double costs, and one moiety of the damages recovered in every such action, shall be retained by the person recovering, and the other shall be applied in supplying such Standards as may be required in his office.

Appeal to G. S. given in certain cases on the conditions, &c. mentioned in Sect. 38 of 4 and 5 V. c. 26.

XIV. And be it enacted, That whenever any person shall be convicted under this Act, before any Justice of the Peace, and the penalty which such person shall have been condemned to pay shall exceed forty shillings currency, and such person shall think himself aggrieved by such conviction and condemnation, such person may appeal to the next Court of General Quarter Sessions of the Peace which shall be holden not less than twelve days after the day of such conviction, in like manner, and on the like conditions, and with the like effect, and subject to the like provisions as are provided with regard to appeals from conviction before Justices of the Peace, in and by the thirty-third and thirty-fourth sections of the Act passed in the Session held in the fourth and fifth years of Her Majesty's Reign, and intituled, *An Act for consolidating and amending the Statutes in this Province relative to offences against the person.*

C A P. L X X X V I.

An Act to amend the Act relating to Mutual Insurance Companies in Upper Canada.

[30th May, 1849.]

Preamble.

Act 4 & 5
Vict. c. 64.

WHEREAS much inconvenience is found to arise from that provision of the Act passed in the Session held in the fourth and fifth years of Her Majesty's Reign, intituled, *An Act to amend an Act of the Parliament of the late Province of Upper Canada,*

Canada, intituled, *An Act to authorize the establishment of Mutual Insurance Companies in the several Districts of this Province*, which prevents Mutual Insurance Companies from effecting Insurance on property, except in their own Districts: And whereas it is expedient that the said Companies should have authority to take risks on property situate in the adjoining Districts: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the second section of the Act mentioned in the Preamble to this Act, be and the same is hereby repealed.

Section 2 of the said Act repealed.

II. And be it enacted, That it shall be lawful for any Justice of the Peace to examine on oath or solemn affirmation any party or person who shall come before him to give evidence touching any loss by fire in which any Mutual Insurance Company in Upper Canada shall be interested, and to administer the requisite oath or affirmation.

A Justice of the Peace may examine parties on oath as to losses by fire.

III. And be it enacted, That it shall be no objection to the evidence of any person adduced as a witness in any suit, action or proceeding, civil or criminal, in which any Mutual Insurance Company in Upper Canada shall be a party or interested, that such person is a Member of such Company, or that his property is insured by it, provided he be not a party to such suit, action or proceeding named on the record.

Members may be witnesses in certain suits, provided they be not parties.

CAP. LXXXVII.

An Act to amend an Act passed in the Parliament of Upper Canada in the ninth year of the Reign of His late Majesty King George the Fourth, intituled, *An Act to provide for the construction of Aprons to Mill Dams over certain Streams in this Province*, and to make further provision in respect thereof.

[30th May, 1849.]

WHEREAS it is necessary to declare that Aprons to Mill Dams which are now required by Law to be built and maintained by the owners and occupiers thereof in Upper Canada, should be so constructed as to allow a sufficient draught of water to pass over such Aprons as shall be adequate in the ordinary flow of the Streams to permit Saw Logs and other Lumber to pass over the same without obstructions: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That on from and after the first day of October next, it shall be the duty of each and every owner or occupier of any Mill Dam at which an Apron or Slide is by the said Act required to be constructed, so to have altered and if not already built, to have constructed

Preamble.

Aprons or slides to dams to be constructed in a certain manner.

Proviso :
Water gates
and Slash-
boards may be
used on the
dam on certain
conditions.

Proviso as to
certain small
streams.

Special provi-
sion with re-
gard to the
River Ottona-
bee.

Penalty on
owners of
Dams neglect-
ing to comply
with the re-
quirements of
this Act.

How recovera-
ble.

How applied.

A certain time
allowed for re-
pairing Aprons
carried away
or damaged.

All persons
may float logs,
&c., down
streams in U.
C.

Proviso: such
persons not to
damage any
Dam or other
structure on
such Streams.
Provided they
have proper
slides, &c.

constructed such Apron or Slide so as to afford depth of water sufficient to admit of the passage over such Apron or Slide of such Saw Logs, Lumber and Timber, as are usually floated down such Streams or Rivers whereon such Dams shall be erected; Provided always, that every such owner or occupier of any such Dam may construct a Waste Gate or put up Brackets and Slash Boards in, upon and across any such Apron for the purpose of preventing any unnecessary waste of water therefrom, and to keep the same closed at all times when no person or persons shall be ready and require to pass or float any Craft, Lumber or Saw Logs over any such Apron or Slide, but not until such Craft, Raft, Lumber or Saw Logs shall have gained the main Channel of the Stream: Provided also, that no person shall be required to build such Aprons or Slides on small Streams unless required for the purposes of rafting or floating down Lumber and Saw Logs as aforesaid.

II. And be it enacted, That no Apron to any Mill Dam on the River Ottonabee, shall be less than thirty-two feet wide by an inclined plane of five feet to a perpendicular of one foot, and so in proportion to the height of the Dam; and that side pieces of at least one foot in height, shall be fixed on the outsides of every such Apron to confine the water and prevent the timber from falling off at the sides.

III. And be it enacted, That every owner or occupier of any such Dam, who shall neglect or refuse to make and construct, if not already made and constructed, and keep in repair an Apron of such description as aforesaid, shall pay a penalty of ten shillings per day, for every day during which such owner or occupier shall have neglected to comply with the requirements of this Act, and such penalty shall be recoverable before any two Justices of the Peace for the District in which the offence shall have been committed, on the oath of two credible Witnesses, and if not paid, shall be levied by distress and sale of the goods and chattels of the offender, by a Warrant under the hand and seal of such Justices or either of them, and shall be paid to the Treasurer of the Municipal Corporation having jurisdiction within the locality where such Dam shall be erected, for the general uses of the Municipality.

IV. Provided always, and be it enacted, That in case any Apron now constructed or hereafter to be constructed shall be carried away, destroyed or damaged by flood or otherwise, the owner or occupier of the Dam to which the same was attached, shall not be liable to such penalty as aforesaid, provided such Apron be repaired or constructed in conformity to this Act, so soon as the state of the Stream shall be such as to permit such owner or occupier to repair or re-construct the same with safety; but if he fail then to repair or re-construct such Apron, he shall be liable to the penalty aforesaid.

V. And be it enacted, That it shall be lawful for all persons to float Saw Logs and other Timber Rafts and Craft down all Streams in Upper Canada, during the Spring, Summer and Autumn Freshets, and that no person shall by felling trees or placing any other obstruction in or across such Stream, prevent the passage thereof; Provided always, that no person using such Stream in manner and for the purposes aforesaid, shall alter, injure or destroy any Dam or other useful erection in or upon the bed of or across any such Stream, or do any unnecessary damage thereto or on the Banks of such Stream; Provided there shall be a convenient Apron, Slides, Gate, Lock or opening in any such Dam or other structure made for the passage of all Saw Logs and other Timber, Rafts and Crafts authorized to be floated down such Stream as aforesaid.

CAP. LXXXVIII.

An Act to amend the Militia Law of this Province, in so far as regards the Enrolment of and Fines imposed upon Quakers, Menmonists and Tunkers.

[30th May, 1849.]

WHEREAS it is expedient to repeal so much of the Act regulating the Militia of this Province, as obliges Quakers, Menmonists or Tunkers to enrol themselves in any Company Division in Upper Canada, and to revive the Act hereinafter mentioned relating to the payment to be made by such persons in lieu of serving in the Militia: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the thirty-first Section of the Act passed in the ninth year of Her Majesty's Reign, and intituled, *An Act to repeal certain Laws therein mentioned, to provide for the better Defence of this Province, and to regulate the Militia thereof*,—and so much of the said Act as repeals the Act passed in the Session held in the fourth and fifth years of Her Majesty's Reign, and intituled, *An Act to amend the Militia Law of that part of this Province formerly constituting the Province of Upper Canada*,—and so much of the said first mentioned Act as may be inconsistent with or repugnant to this Act or to the Act secondly mentioned,—shall be and are hereby repealed, in so far as regards that portion of this Province which formerly constituted the Province of Upper Canada; and the Act secondly mentioned, shall be and is hereby revived, and shall be and remain in force, and shall apply to the Militia Law now in force and to the Militia thereby organized, and to things to be done under the same, as fully and effectually as if the provisions thereof were herein repeated and re-enacted.

Preamble.

Sec. 31 of 9
V. c. 28--

And so much
thereof as re-
peals 4 & 5
V. c. 2--

repealed as to
U. C.

4 & 5 Vic. c. 2
revived.

CAP. LXXXIX.

An Act to alter the day on which the Militia shall annually assemble for Muster and Discipline in Upper Canada.

[25th April, 1849.]

WHEREAS the day appointed by the twenty-eighth Section of the Act regulating the Militia, for the Annual Muster of the said Militia, hath been found inconvenient in Upper Canada, and it is expedient to change the day so appointed: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted, by the authority of the same, That for and notwithstanding any thing in the twenty-eighth Section or in any other part of the Act passed in the ninth year of Her Majesty's Reign, and intituled, *An Act to* repeal

Preamble.

Annual mus-
ter day under
9 V. c. 28,
changed as to
U. C.

repeal certain Laws therein mentioned, to provide for the better defence of this Province, and to regulate the Militia thereof, the day on which the first class of Militia shall be assembled in Upper Canada for Muster and Discipline shall not be the twenty-ninth day of June, but shall be the twenty-eighth day of June in each year, unless that day be a Sunday or Holy-day, in which case the next following day not being a Sunday or a Holy-day, shall be the day for so assembling.

CAP. XC.

An Act to substitute Yearly Returns for the Quarterly Returns required of Clergymen and others by the Sixteenth Section of the Census Act.

[25th April, 1849.]

Preamble.

WHEREAS it is unnecessary that the Returns hereinafter mentioned should be made oftener than once in each year: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That for and notwithstanding any thing in the sixteenth section of an Act passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, and intituled, *An Act for taking the Census of this Province, and obtaining Statistical information therein*, the Registry in the said section mentioned, shall be forwarded by the person by whom it shall have been kept, to the proper Clerk of the Peace, or City or Town Clerk, within five days after the first day of January in each year, and not oftener.

Certain Returns required by 10 & 11 V. c. 14, to be made only once a year.

While the Census Act shall be in force certain returns not be required.

II. And be it enacted, That so long as the Act last above mentioned shall remain in force, it shall not be necessary that any Minister, Clergyman, or Justice of the Peace, should return to any Clerk of the Peace, the list of the marriages by him solemnized, required by the sixth Section of the Act of the Legislature of Upper Canada, passed in the eleventh year of the Reign of His Majesty King George the Fourth, and intituled, *An Act to make valid certain Marriages heretofore contracted, and to provide for the future solemnization of Matrimony in this Province*, any thing in the said Section to the contrary notwithstanding.

CAP. XCI.

An Act to amend certain Acts for the Relief of Religious Societies.

[30th May, 1849.]

Preamble.

WHEREAS it is expedient to extend the time for the Registry of Deeds heretofore executed under the provisions of the Act of the Parliament of Upper Canada, passed in the ninth year of the Reign of King George the Fourth, intituled, *An Act for the Relief of the Religious Societies therein mentioned*, and by the

Act of U. C. 9 G. o. 4. c. 2.

Act

Act of the Province of Canada, passed in the eighth year of Her Majesty's Reign, and intituled, *An Act to extend the provisions of two certain Acts of the Parliament of the Province of Upper Canada to other denominations of Christians than those therein enumerated*, but which the Trustees have neglected to register: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That all Deeds heretofore executed for any of the uses, interests or purposes of either of the said Acts shall be as valid and effectual, if the same be registered within twelve months after the passing of this Act, as if they had been registered within the time limited by either of the before in part recited Acts, except in so far as they may be affected by the prior registration of other Deeds or Instruments relating to the same lands.

Act of Canada.
8 Vic. c. 15.

Further time
allowed for
registration of
deeds.

Exception.

II. And whereas under the said Acts divers Religious Societies or Congregations have by their Trustees acquired lands which from circumstances have become inappropriate to the purposes for which they were acquired, and it would be for the advantage of such Societies or Congregations that their Trustees should be enabled to dispose of any such lands and acquire others better adapted for their purposes: Be it therefore enacted, That it shall and may be lawful for the Trustees for the time being, of each of the Religious Societies or Congregations to which the said Acts are applicable, and the said Trustees of each respective Society or Congregation are, as such Trustees, hereby authorized from time to time, upon the express consent of the Conference, Synod or Body having the direction of the temporal affairs of such Societies or Congregations respectively, first had therefor, by Deed under their hand and seal of office, (which seal each body of Trustees is hereby empowered to have and make, and from time to time to alter) to lease, mortgage, sell and convey or exchange such of the lands and tenements held or to be held by any of the said respective Trustees, in such portions and in such manner as from time to time may be deemed by the Trustees thereof necessary and useful for the purposes connected with the particular Trust; subject nevertheless to the consent of such Conference, Synod or Body as aforesaid: and the receipt of the Trustees for the purchase money in any such Deed mentioned, shall be an absolute discharge to the purchaser, who shall be in no way bound to see to the application of the same, or of any part thereof: Provided always, that the moneys arising from the sale or mortgage of any such lands which shall have been acquired by the Trustees by Deed of sale or mortgage shall be applied by the Trustees to the purchase of other lands to be held by them for like purposes and trusts, or to the improvement of the same or other lands held by them upon the Trusts: And provided also, that no lands acquired by the Trustees by free gift for special purposes shall be sold by the Trustees without the consent of the Grantor or of those who legally represent the Grantor.

Recital.

Trustees may
alienate pro-
perty for the
advantage to
the Congrega-
tion, and with
the consent of
the Congrega-
tion, &c.

Effect of the
receipts of
Trustees for
the purchase
money.

Proviso as to
application of
purchase
money.

Proviso as to
lands given for
special pur-
poses.

CAP. XCII.

An Act to enable the Trustees of Churches and Parsonages and other Trusts belonging to the Wesleyan Methodist Church in Canada, more conveniently to manage and dispose of their Estates, and for other purposes therein mentioned.

[30th May, 1849]

Preamble.

Act of U. C. 9
Geo. 4. c. 2.

Trustees empow-
ered to
convey the
Trust property
with the con-
sent of the
Conference.

Effect of the
receipt of the
Trustees.

Proviso as to
the application
of purchase
money, &c.

Proviso as to
lands given for
special purpo-
ses.

WHEREAS by virtue of an Act of the Parliament of the Province of Upper Canada, passed in the ninth year of the Reign of King George the Fourth, intituled, *An Act for the relief of the Religious Societies therein mentioned*, and of another Act of the Parliament of the said Province, passed in the third year of Her Majesty's Reign, Religious Congregations or Societies of the Wesleyan Methodist Church in Canada, by Trustees, as authorized by the said Acts, have in several instances acquired certain lands, which, from circumstances, have become inappropriate for the purposes for which the same were obtained, and the said Trustees are unable either to exchange or otherwise to dispose of the same for the Trust purposes, and are also prevented from raising money, either by way of loan or of rental, on the Trust Estate, notwithstanding it would in many instances, manifestly subserve the best interests of the said Trusts; And whereas it would be beneficial to the said Trusts to facilitate the management and disposal of the Trust property by the respective Trustees, subject however in all cases, to the consent of the Conference of the said Church: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall and may be lawful for the Trustees for the time being, of each of the Religious Congregations of the said Wesleyan Methodist Church in Canada, and the said Trustees of each respective Congregation are, as such Trustees, hereby authorized, from time to time, upon the express consent of the Conference of the said Wesleyan Methodist Church first had therefor, by Deed under their hand and seal of office, (which seal each body of Trustees is hereby empowered to have and make, and from time to time to alter) to lease, mortgage, sell and convey or exchange such of the lands and tenements held or to be held by any of the respective Trustees, in such portions and in such manner, as from time to time may be deemed by the Trustees thereof necessary and useful for the purposes connected with the particular Trust; subject nevertheless to the consent of the Conference as aforesaid: and the receipt of the Trustees for the purchase money in any such deed mentioned, shall be an absolute discharge to the purchaser, who shall be in no way bound to see to the application of the same, or of any part thereof. Provided always, that the moneys arising from the sale or by mortgage of any such lands which shall have been acquired by the Trustees by Deed of sale or mortgage shall be applied by the Trustees to the purchase of other lands to be held by them for like purposes and Trusts, or to the improvement of the same or other lands held by them upon like Trusts; And provided also, that no lands acquired by the Trustees by free gift for special purposes shall be sold by the Trustees without the consent of the Grantor or of those who legally represent the Grantor.

1849,—12° VICTORIÆ,
SECOND SESSION, THIRD PARLIAMENT.

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An Act to alter and amend the Charter of the Great Western Rail-Road Company. [30th May, 1849.]

CAP. CLVII.

An Act to incorporate the Markham and Elgin Mills Plank Road Company. [30th May, 1849.]

CAP. CLVIII.

An Act to incorporate the City of Kingston Water Works Company. [30th May, 1849.]

CAP. CLIX.

An Act to increase the Stock of the Grand River Navigation Company. [30th May, 1849.]

CAP. CLX.

An Act to incorporate certain persons under the style and title of The President, Directors and Company of Port Burwell Harbour. [30th May, 1849.]

CAP. CLXI.

An Act to amend the Act incorporating the Niagara Falls Suspension Bridge Company. [30th May, 1849.]

CAP. CLXII.

An Act to incorporate the Sault Sainte Marie Mining Company. [30th May, 1849.]

CAP. CLXIII.

An Act to incorporate certain persons under the name and style of the Neepigon Mining Company. [30th May, 1849.]

C A P . C L X I V .

An Act to incorporate the Huron Mining Company. [30th May, 1849.]

C A P . C L X V .

An Act to incorporate certain persons under the style of the Huron Copper Bay Company. [30th May, 1849.]

C A P . C L X V I .

An Act to incorporate the Ontario Marine and Fire Insurance Company. [30th May, 1849.]

C A P . C L X V I I .

An Act to incorporate the Provincial Mutual and General Insurance Company. [30th May, 1849.]

C A P . C L X V I I I .

An Act to incorporate the Canada Life Assurance Company. [25th April, 1849.]

C A P . C L X I X .

An Act to amend the Act to incorporate the Gore Bank, and to increase the Capital Stock of the said Bank. [25th April, 1849.]

C A P . C L X X .

An Act further to extend the time for paying up the New Stock of the Commercial Bank of the Midland District. [25th April, 1849.]

C A P . C L X X I .

An Act to enable William Bradley to hold a certain Road Allowance, in Caledonia, in the Ottawa District. [25th April, 1849.]

C A P . C L X X I I .

An Act to vest a certain Road Allowance in the Township of Nelson, in John S. McCollom. [25th April, 1849.]

C A P . C L X X I I I .

An Act for the relief of Joseph Richard Thompson and Henry Jessup. [25th April, 1849.]

C A P . C L X X I V .

An Act to enable George Carruthers and others to carry into effect the Will of the late Doctor Richard Noble Starr. [30th May, 1849.]

C A P . C L X X V .

An Act for the reversal of the Attainder of Oliver Grace, and for other purposes therein mentioned. [30th May, 1849.]

LOWER CANADA.—PRIVATE AND PERSONAL ACTS.

C A P . C L X X V I .

An Act to amend an Act incorporating the Saint Lawrence and Atlantic Rail-Road Company. [30th May, 1849.]

CAP. CLXXVII.

An Act further to amend the Act incorporating the Montreal and Lachine Rail-Road Company, and for other purposes.

[30th May, 1849.]

CAP. CLXXVIII.

An Act to incorporate the Montreal and Vermont Junction Rail-way Company.

[30th May, 1849.]

CAP. CLXXIX.

An Act to amend and extend the Act to incorporate the Montreal and Province Line Junction Rail-way Company.

[25th April, 1849.]

CAP. CLXXX.

An Act to incorporate a Company for the construction of a ship Canal to connect the waters of Lake Champlain and the River St. Lawrence.

[30th May, 1849.]

CAP. CLXXXI.

An Act to incorporate the Montreal and Troy Telegraph Company.

[30th May, 1849.]

CAP. CLXXXII.

An Act to incorporate the Quebec Gas Company.

[30th May, 1849.]

CAP. CLXXXIII.

An Act to amend the Act incorporating the new City Gas Company of Montreal, and to extend the powers of the said Company.

[30th May, 1849.]

CAP. CLXXXIV.

An Act to extend the time limited for an increase of the Capital Stock of the Bank of Montreal.

[25th April, 1849.]

CAP. CLXXXV.

An Act to amend the Act incorporating the City Bank, and to provide for a reduction of its Capital Stock.

[30th May, 1849.]

CAP. CLXXXVI.

An Act to authorize Marc Antoine Primeau and Antoine A. Trottier, to erect a Toll Bridge over the River Chateauguay, in the Parish of Ste. Martine, and to make a Plank Road from the River Saint Lawrence to the River Chateauguay, in the said Parish, and to fix the Tolls to be taken upon the said Bridge and Road, and to make further provisions in that behalf.

[30th May, 1849.]

CAP. CLXXXVII.

An Act to authorize Alexandre Maurice Delisle, Benjamin Henri Lemoine and Jean Baptiste Debien, the younger, to build a Toll Bridge over the River Jésus, and for other purposes therein mentioned.

[30th May, 1849]

CAP. CLXXXVIII.

An Act to authorize Amable Archambault and others to erect a Toll Bridge over the River L'Assomption, and for other purposes therein mentioned.

[30th May, 1849.]

C A P . C L X X X I X .

An Act to authorize Joseph Clovis Bélanger, Esquire, and others, to erect a Toll Bridge over the River Etchemin, in the Parish of St. Anselme, near the Church of the said Parish in the County of Dorchester, and to incorporate the said Joseph Clovis Bélanger and others under the name of the "Saint Anselme Bridge Company," and for other purposes therein mentioned.

[30th May, 1849.]

C A P . C X C .

An Act to authorize John Yule, the younger, Esquire, and others, to erect a Mill Dam upon the River Richelieu in the District of Montreal.

[30th May, 1849.]

C A P . C X C I .

An Act to incorporate the Mount Hermon Cemetery.

[30th May, 1849.]

C A P . C X C I I .

An Act to incorporate the Quebec Warehousing Company.

[30th May, 1849.]

C A P . C X C I I I .

An Act to incorporate certain persons under the name of the Quebec Forwarding Company.

[30th May, 1849]

C A P . C X C I V .

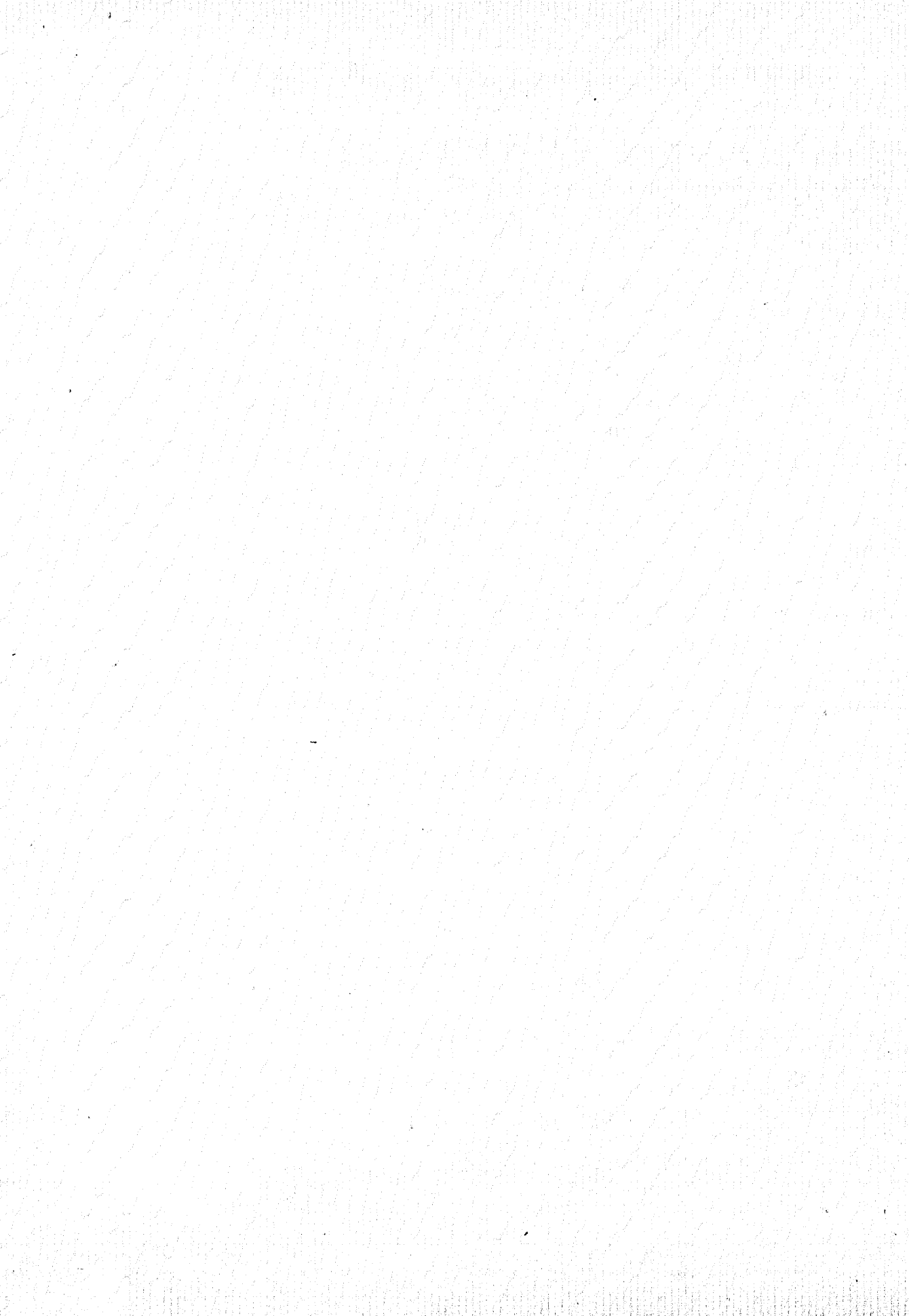
An Act to incorporate the Merchants' Exchange and Reading Room of Montreal.

[30th May, 1849.]

C A P . C X C V .

An Act to enable Charles James Stuart, Esquire, to practice the Law in Lower Canada.

[25th April, 1849.]





ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. XCIII.

An Act to provide for the alteration of the times and places for holding the
 Division Courts, in Division Number Six in the District of Bathurst.

[30th May, 1849.]

WHEREAS from the great distance at which part of the Bathurst District, consisting of Division Number Six, is situated from the District Town, and the difficulty of access to it at certain seasons of the year, from the want of roads or other suitable means of communication, great difficulty is experienced in holding the Division Courts in the said Division: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the passing of this Act, in and for the Bathurst District, to divide Division Number Six of the said District into two or three sections, and that it shall and may be lawful for the Judge of the District Court to fix and appoint the times and places in such sections respectively, at and in which Division Courts shall be held three times in each year, within each of the said several sections of the said Division Number Six; any law or usage to the contrary notwithstanding.

Preamble.

Division No. 6 may be divided into three Districts, and a Court held three times a year in each.

II. And be it enacted, That the unsurveyed lands of the Midland District which may be annexed to the said District of Bathurst by any Act passed during the present Session, shall be considered as part of what at present composes Division Number Six of the said District of Bathurst, and shall come within the provisions of this Act.

Certain unsurveyed lands to form part of the said division No. 6.

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ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. XCIV.

An Act to detach a certain tract of land from the Midland District, and to annex it to the District of Bathurst.

[30th May, 1849.]

WHEREAS from the peculiar position of the tract of land hereinafter mentioned, its inhabitants cannot without great inconvenience and expense attend the Courts in the Midland District, to which it now belongs, but could much more conveniently attend those held in the District of Bathurst: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That all that tract of land lying to the north-west of the Townships of Palmerston and Clarendon, in the Midland District, and between the said Townships and the Ottawa River, and bounded on one side towards the north-east by the present line of the District of Bathurst, and on the other side towards the south-west by a line drawn parallel to the general course of the line last mentioned, from the western corner of the said Township of Clarendon to the Ottawa River, shall be and the said tract of land is hereby detached from the Midland District, and shall hereafter form part of the District of Bathurst; Provided always, that all suits, actions, prosecutions or proceedings of any kind commenced before the passing of this Act, shall be continued and proceeded in, and execution shall be done therein as if this Act had not been passed.

Preamble.

A certain tract detached from the Midland District and annexed to the District of Bathurst.

Proviso as to pending suits, &c.

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ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. XCV.

An Act to define the Boundary between the Districts of Bathurst and Johnstown.

[25th April, 1849.]

WHEREAS doubts have arisen as to the precise boundary between the Bathurst and Johnstown Districts, so that it is uncertain in which District certain property is situate; and it is expedient and necessary to remove such doubts, and to define the said boundary: Be it therefore declared and enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby declared and enacted by the authority of the same, That the middle of the Rideau Lake and River, in front of the Townships of North Burgess, North Elmsley, and Montague, has been and is the boundary line between the said District of Bathurst and the said District of Johnstown: Provided always, that wherever the line drawn along the middle of the said Lake and River, within the limits aforesaid, passes over any island, such island shall be deemed to have been and is hereby declared to be in the said District of Bathurst if the greater part thereof lies north of the said line, and in the District of Johnstown if the greater part thereof lies south of the said line.

Preamble.

What shall be the line between the Districts of Bathurst and Johnstown.

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ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. XCVI.

An Act to divide the District of Huron, in the Province of Canada, and for other purposes therein mentioned.

[30th May, 1849.]

WHEREAS from the great extent of the District of Huron as at present constituted, and the consequent distance of some parts of it from the District Town, the inhabitants of those parts suffer great inconvenience; And whereas also, from the vastly increasing population and agricultural advancement thereof, it is expedient that the said District should be divided, and certain portions of the same should be set off and erected into new and separate Counties, to remain united to that of Huron until they shall be disunited under the provisions of the Act passed in the present Session, and intituled, *An Act for abolishing the Territorial Division of Upper Canada into Districts, and for providing for Temporary Unions of Counties for judicial and other purposes, and for the future dissolutions of such Unions as the increase of wealth and population may require*: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That for all the purposes of the Act cited in the Preamble to this Act, the County of Huron shall be divided into three Counties, to be called respectively, the County of Huron, the County of Perth, and the County of Bruce: and the County of Perth shall include and consist of the Townships of Blanchard, Hibbert, Fullarton, Logan, Downie, (including the Gore of Downie,) Ellice, Easthope North, Easthope South, (including the Town of Stratford,) Elma and Wallace, in the now County of Huron, and Mornington in the now County of Waterloo; the County of Bruce shall include and consist of the Townships of Huron, Kinloss, Culross, Carrick, Kincardine, Greenock, Brant, Bruce, Saugeen, Elderslie and Arran; and the County of Huron shall include and consist of all the remainder of the now County of Huron (including the Town of Goderich,) but the said three Counties of Huron, Perth and Bruce shall remain united and form a Union of Counties for all the purposes of the Act last aforesaid, until such Union be dissolved in the manner provided in the said Act.

Preamble.

County Substitution Act of this Session (c. 78.) cited.

County of Huron divided into three Counties.

Perth.

Bruce.

Huron.

II. And be it enacted, That all that Peninsular Tract of Land lying to the northward of the Townships of Derby, Arran and Saugeen, and between Lake Huron and the Georgian

To what County a certain Peninsular Tract and

certain Islands shall belong.

Georgian Bay, and known as the Indian Reserve, together with every Island in Lake Huron or the Georgian Bay, any portion of which lie within ten miles of the shore of the said Peninsular Tract of Land, (unless such Island shall lie further south than the northern boundary line of the said Townships of Derby, Arran and Saugeen,) shall be annexed to and form part of the County of Waterloo: and that every such Island in Lake Huron as shall lie further south than the said boundary line, shall form part of such of the said Counties of Huron or Bruce respectively as such Island shall lie most adjacent to.

County of Perth to be considered as if a proclamation had issued under section 10 of the said Act, c. 78.

County Town appointed, &c.

III. And whereas the population of the said County of Perth exceeds twelve thousand, and from its geographical position it is expedient that provision be made for its separation from the said Union without waiting till its population shall be such as is required by the tenth section of the said Act recited in the Preamble to this Act: Be it therefore enacted, That the said County of Perth shall, for all the purposes of the Act last aforesaid, be considered and dealt with as if a Proclamation had issued under the tenth section of the said Act, naming the Town of Stratford as the County Town thereof, and erecting the Townreeves of the said County then elected or thereafter to be elected for the same, into a Provisional Municipal Council for the said County, and declaring such Municipal Council a Provisional Municipal Council for the same under the said Act, until the dissolution of the Union of the said County with the Counties of Huron and Bruce; and the said Townreeves shall accordingly be a Provisional Municipal Council for the said County of Perth, and shall have and exercise all the powers by the said Act vested in any such Provisional Municipal Council.

A Registry Office to be kept in the County of Perth.

IV. And be it enacted, That when the Union of the said County of Perth and the Counties of Huron and Bruce shall be dissolved in the manner provided by the Act aforesaid, a Registrar shall be appointed for the said County of Perth, and a Registry Office for the Registration of Deeds shall be kept in and for the same at the County Town thereof, in the same manner and under the same provisions as in other Counties in Upper Canada.

Commencement of this Act.

V. And be it enacted, That this Act shall have force and effect upon, from and after the first day of January, in the year of Our Lord, one thousand eight hundred and fifty, and not before.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. XCVII.

An Act to amend the Acts passed to remedy certain defects in the Registration of Titles in the County of Hastings.

[25th April, 1849.]

WHEREAS the period hath expired within which under the third and fourth sections of the Act passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, and intituled, *An Act to alter and amend an Act, intituled, 'An Act to remedy certain defects in the Registration of Titles in the County of Hastings, in Upper Canada,'* certain memorials might be received and indexed, and certain deeds, conveyances, wills or probates, might be endorsed under the said Act and the Act thereby amended, passed in the ninth year of Her Majesty's Reign, and intituled, *An Act to remedy certain defects in the Registration of Titles in the County of Hastings, in Upper Canada;* And whereas a great number of deeds, wills and instruments to which the said Acts were intended to apply, still remain unregistered: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council, and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada,* and it is hereby enacted by the authority of the same, That the period limited by the third and fourth sections, respectively, of the Act first cited in the Preamble to this Act, as that within which it shall be lawful for the Registrar or Deputy Registrar of the County of Hastings, to receive and index any memorial under the authority of the said Act or of the Act secondly cited in the Preamble to this Act, or to endorse any deed, conveyance, will or probate to which such memorial relates, shall be and is hereby extended to the first day of January, one thousand eight hundred and fifty-two, and thence until the end of the then next Session of the Provincial Parliament, as if that had been the period mentioned and limited in the said third and fourth sections, respectively, of the Act first cited in the Preamble to this Act, and in the sixth section of the Act secondly therein cited.

Preamble.

Act 10 & 11
 Vic. c. 38,
 cited.

Act 9 Vic. c.
 12, cited.

The period allowed for registering Deeds, &c., under the said Acts extended.

II. And be it enacted, That it shall be the duty of the Registrar for the said County of Hastings, either by himself or by his Deputy, to cause to be inserted, not less than twice in each month, for three months next after the passing of this Act, in the *Canada Gazette*, and in all newspapers published in the said County, a notice calling upon all persons who may have any deeds, conveyances, wills or probates, on which a certificate of Registry has been endorsed and signed by Robert Charles Archibald McLean, or by

A certain notice to be published by the Registrar or his Deputy.

Robert

Robert Smith, each of whom was formerly Deputy Registrar of the said County, and not having been produced under the Acts aforesaid, or either of them, to produce such deeds, conveyances, wills or probates, together with a memorial thereof, in the form now required by law (except that such memorial need not be signed or sealed by any person,) on which memorial shall be endorsed a true copy of the certificate on the deed, conveyance, will or probate to which it relates,—on or before the last day of the Session commencing next after the said first day of January, one thousand eight hundred and fifty-two, at the Office of the Registrar of the said County,—or that they will not be entitled to the protection or benefit of this Act and of the Acts aforesaid.

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ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. XCVIII.

An Act to divide the Township of Cayuga, in the District of Niagara, into two Townships.

[25th April, 1849.]

WHEREAS the Municipal Council of the District of Niagara have by their Petition prayed that the Township of Cayuga in the said District, be divided into two Townships in the manner hereinafter mentioned, and by reason of the extent of the said Township, it is expedient so to divide the same: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the thirty-first day of December next, the said Township of Cayuga shall be and is hereby divided for all purposes whatsoever into two Townships, the one to be called the Township of South Cayuga, and the other to be called the Township of North Cayuga; and the said Township of South Cayuga shall consist of and include all that part of the present Township of Cayuga lying on the south side of the Grand River, and to the south-east of the block of lands called Jones' Tract; and the said Township of North Cayuga shall consist of and include the remainder of the present Township.

Preamble.

Township of
Cayuga divided
into two
Townships.

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ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. XCIX.

An Act to divide the Townships of Leeds and Lansdown, in the District of Johnstown.

[30th May, 1849.]

WHEREAS the greater part of the Townships of Leeds and Lansdown, in the District of Jonstown, in Upper Canada, are divided by the waters of the Gananoque River, Wiltsie and South Lakes, so as to prevent convenient intercourse between the front and rear of the said Townships; And whereas the inhabitants of the front of the said Townships have for many years past been accustomed to hold Township Meetings together as one Township, under the name of the Front of Leeds and Lansdown, and to transact public business thereat for Municipal and other purposes, as if they were one Township; and the inhabitants of the rear of the said Townships have followed the like custom, under the name of the Rear of Leeds and Lansdown; And whereas it is desirable to confirm the custom which has so long prevailed, and to affirm and declare by law that such union of the said Townships shall be valid for the purposes aforesaid: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That all proceedings hitherto had for Municipal or Election purposes by the inhabitants of the Township of Leeds residing in front of the sixth Concession of the said Township, and by the inhabitants of the Township of Lansdown residing in front of the seventh Concession of the said Township, assembled together for such purposes, and all similar proceedings hitherto had by the inhabitants of the remaining portions of the said Townships assembled together for like purposes, shall be as valid and effectual in law as if the said Townships had been by Legislative enactment set apart and divided in the said manner for such purposes.

Preamble.

Proceedings hitherto had for certain purposes in Leeds and Lansdown legalized.

II. And be it enacted, That the first, second, third, fourth and fifth Concessions of the said Township of Leeds, and the first, second, third, fourth, fifth and sixth Concessions of the said Township of Lansdown, shall, for all Municipal and Election purposes, be united together and formed into a Township, to be called the Front of Leeds and Lansdown; and that the remainder of the said Townships for like purposes, shall be united together and formed into one Township, to be called the Rear of Leeds and Lansdown.

Two new Townships formed out of Leeds and Lansdown.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. C.

An Act to alter the boundary line between the Townships of Hallowell and Sophiasburgh, in the District of Prince Edward.

[25th April, 1849.]

WHEREAS from the local situation of the Townships of Hallowell and Sophiasburgh, certain of the inhabitants thereof are now situated at an inconvenient distance from the places where the respective Township meetings are held, which inconvenience would be remedied by an alteration of the boundary line between the said Townships: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That that part of the Township of Sophiasburgh lying west of Lot Number Sixty-four, in the First Concession, and of Lot Number Sixty-one in the Second Concession, together with the Irvine and Gerow Gores, be taken from the Township of Sophiasburgh, and attached to and hereafter form part of the Township of Hallowell.

Preamble.

Part of Sophiasburgh annexed to Hallowell.

II. And be it enacted, That that part of the Third Concession from the Sophiasburgh line to the west side of Lot Number Fifty-one, be taken from the Township of Hallowell and attached to and hereafter form part of the Township of Sophiasburgh.

Part of Hallowell annexed to Sophiasburgh.

III. And be it enacted, That this Act shall take effect on and after the first day of January next.

Commencement of this Act.

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ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CI.

An Act to appoint Commissioners to define the Boundary Line between the Township of Walpole, in the Niagara District, and the Township of Woodhouse, in the Talbot District.

[30th May, 1849.]

WHEREAS certain persons, inhabitants of the Township of Walpole, in the County of Haldimand, and of the Township of Woodhouse, in the County of Norfolk, have by their petition set forth that the Boundary or Town Line between the said Townships, is in dispute, owing to their having been two lines in part laid down in the field, and differing materially from each other, and have prayed that the course of the line between the said Townships may be established under the authority of the Legislature; And whereas it would be of manifest advantage to the inhabitants of the said Townships, and would prevent litigation if the said line were so established: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the Commissioner of Crown Lands for the time being, James R. Fell, of Chippawa, County of Welland, and Charles Rankin, of Toronto, Deputy Provincial Surveyors, are hereby appointed Commissioners for the purposes of this Act, and are authorized to proceed some time in the months of June, July or August next, to the land and boundary mentioned in the Preamble to this Act, and then and there to determine the same as between the said Townships of Walpole and Woodhouse.

Preamble.

Commissioners appointed to determine the line between Walpole and Woodhouse.

II. And be it enacted, That it shall and may be lawful for the said Commissioners, for the purposes aforesaid, to make entry on any or all of the farms or lands of any of Her Majesty's subjects, lying and being contiguous or near to the said disputed line, where it may be necessary to make any such examination and survey as aforesaid, and to place any posts or marks thereon for the purposes of this Act, without being liable to any action at law as trespassers.

Commissioners may enter on lands to examine lines, &c.

III. And be it enacted, That it shall and may be lawful for the said Commissioners, and they are hereby required, well and truly to enquire into all matters of fact necessary for directing their judgment as to their award, and by all such lawful ways and means as are incident to a Court of civil jurisdiction, to compel attendance and appearance

Commissioners may summon witnesses, administer oaths, &c.

appearance of witnesses necessary in the investigation and the production before them of all or any deeds, books, maps, diagrams or other documents or evidence in any way relating to the matters in controversy, as well as to tender and administer to such witnesses any oath or oaths pertinent to the subject matter.

Report to be made in quadruplicate.

Where to be deposited, &c.

Decision to be final subject to control in Q. B. &c.

Proviso: Boundaries to be placed.

Provision if a Commissioner should die, &c.

Allowance to Commissioners except Commissioners of Crown Lands.

How paid.

Two Commissioners to be a Quorum.

Public Act.

IV. And be it enacted, That so soon as the said Commissioners shall have determined the boundary line between the said Townships, they shall cause a report and plan to be drawn up in quadruplicate under their hands and seals, describing and defining the said boundary line, and shall deposit one copy thereof with the Registrar of the County of Norfolk, another with the Registrar of the County of Haldimand, the third in the Office of the Commissioner of Crown Lands, and the fourth in the Court of Queen's Bench in Toronto; and the decision of the said Commissioners with respect to the said boundary line shall be final, provided the Court of Queen's Bench shall not be moved thereon within six months after the same shall have been filed with the said Court by the said Commissioners: Provided always, that the said Commissioners shall cause stone boundaries to be placed on the said boundary line at such points as they shall deem necessary.

V. And be it enacted, That in case the said Commissioners, or any one or more of them, shall die or shall decline to act, or become incapable of acting, it shall be lawful for the Governor of this Province to appoint another or others to act in his or their stead.

VI. And be it enacted, That it shall and may be lawful for the said Commissioners, except the Commissioner of Crown Lands, to receive for each and every day they may be employed in carrying out the provisions of this Act, the sum of twenty shillings currency and also the expenses by them necessarily incurred for the purposes of this Act, to be paid one half out of the funds of the Talbot District and one half out of those of the Niagara District, upon an order under the hand of the Chairman of the Quarter Sessions for the time being, directed to the Treasurers of the said Districts respectively.

VII. And be it enacted, That any two of the Commissioners under this Act may exercise any or all of the powers hereby vested in the said Commissioners, and any award made or other thing done by any two of them, shall have the same force and effect as if made or done by the three Commissioners; any thing herein to the contrary notwithstanding.

VIII. And be it enacted, That this Act shall be a Public Act.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CII.

An Act to repeal the Act defining the boundary line between the fourth Concessions of the Townships of Montague and North Elmsley.

[30th May, 1849.]

WHEREAS it appears by the Preamble to the Act passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, and intituled, *An Act to define and establish the boundary between the fourth Concession of Montague and North Elmsley*, that the said Act was passed because it was supposed to be impossible to find or to ascertain the place of the original post or monument at the southerly angle of lot number thirty, in the fourth Concession of the said township of Montague, which would by law be the governing point for ascertaining the original line between the fourth Concessions of the said townships: And whereas, it hath been made apparent by the testimony of Surveyors of acknowledged probity and high professional skill, that the true place of the said post or monument can be and could always have been readily ascertained, and that great and manifest injustice would be done by drawing the line aforesaid in the manner provided by the said Act, and that the general law of the country ought to be left to its operation in the premises: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the Act mentioned in the Preamble to this Act, be and the said Act is hereby repealed: Provided always, That notwithstanding such repeal, all persons shall be and are hereby indemnified and saved harmless for whatever they may have done under the provisions of the said Act, while the same remained in force.

Preamble.
10 and 11
Vict. c. 53.

Repeal 10
and 11 Vict.
c. 53.
Proviso: in-
demnity for
things done
under the
Act.

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ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CIII.

An Act to incorporate the Trustees of the Kingston Hospital.

[30th May, 1849.]

WHEREAS the inhabitants of the City of Kingston and the Midland District, being from their position, constantly called upon to supply the necessities and relieve the condition of sick and destitute Emigrants and other transient persons, and the mariners of the Lakes, it is most desirable that the Hospital at Kingston should be incorporated in order that it may be conducted in a more efficient manner : And whereas the Parliament of the late Province of Upper Canada, in the second year of His late Majesty's Reign, did pass an Act granting the sum of three thousand pounds "in aid of the erection and completion of an Hospital in or near the Town of Kingston for the reception of the destitute sick," in the Preamble of which Act it is stated that "the inhabitants of the Town of Kingston have subscribed a large sum of money towards the erection of an Hospital in or near that place ;" And whereas by the said Act, three Commissioners were appointed "for superintending and managing the erection and completion of the said Hospital and for purchasing the site thereof," who did afterwards proceed to erect the said Hospital : And whereas in the seventh year of his said late Majesty's Reign, the said Parliament did grant a further sum of five hundred pounds for furnishing and fitting up the said Hospital, which was expended for the purpose : And whereas the said Commissioners having discharged their duty by the erection, furnishing and fitting up of the said Hospital, it is proper to relieve them of their charge, and to establish a Corporation, to be composed as hereinafter provided, for the better management and disposition of the lands and property now or hereafter to be held in trust for the said Hospital, and for the better management of any portion of the Marriage License Fund which may be appropriated by the Governor to the said Hospital under the Statute of this Province passed in the ninth year of Her Majesty's Reign, intituled, *An Act to provide for the payment of certain Rebellion Losses in Lower Canada, and to appropriate the proceeds of the Marriage License Fund*, and to make such Rules and By-laws for the internal or other management and regulation of the said Hospital, as shall, from time to time, seem to them expedient and necessary : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the Mayor of the City of Kingston for the time being, the Judge of the Midland District Court for

Preamble.

Act 9. Vic.
c. 65. cited.

Trustees of
the Hospital
appointed and
the

made a Corporation—
their powers,

Corporate
name.

Proviso.

Election of the
Aldermen who
are to be
Trustees.

Quorum.

Trustees to
have a Clerk.

Trustees to
invest and
manage the
Hospital
Funds.

Accounts to
be rendered.

the time being, the Warden of the Midland District for the time being, the Sheriff of the Midland District for the time being, and such three Aldermen of the City of Kingston as shall from time to time as hereinafter mentioned be elected, for the purpose by the City Council of the said City, shall be a body corporate by the name of *The Trustees of the Kingston Hospital*, and as such shall have perpetual succession and a common seal, and have and hold all such land as is now attached or adjacent to the said Hospital, or in connection therewith; and shall and may be capable of receiving, taking and holding from Her Majesty, or from any person or persons, or any body corporate or politic, by grant, devise or otherwise, any lands or interest in lands, or any goods, chattels or effects which Her Majesty or any such person or persons, body corporate or politic may be desirous of granting or conveying to them, for the use and support of the said Hospital, or the endowment thereof; and also shall and may from time to time make such By-laws and Rules for the admission into, and internal management and regulation of the said Hospital, or for the leasing or management of such of the lands or property of the said Hospital as may not be required for the immediate use thereof, as shall to them seem meet and expedient: Provided always, that such By-laws or Rules shall be laid before the Governor General or Person administering the Government of this Province in Council, within thirty days after the same shall have been made and adopted, and may be by him disallowed within one month after the same shall be transmitted to him by the Trustees.

II. And be it enacted, That it shall be lawful for the said City Council of the City of Kingston, immediately after the passing of this Act, and thereafter in the month of January in each and every year beginning with the year one thousand eight hundred and fifty, to elect any three of the Aldermen of the said City to be Trustees under this Act; and the Aldermen so at any time elected, or the survivor or survivors of them shall continue in office as such Trustees until the end of the month of January next following their election, or until the election of their successors as aforesaid, whichever event may soonest happen.

III. And be it enacted, That any four of such Trustees shall form a *quorum* for the transaction of business.

IV. And be it enacted, That the said Trustees shall have power to appoint a Clerk or Secretary, who shall keep regular minutes of their proceedings, and such other officers for the proper management of the Hospital as they shall consider proper, and to remove him, her or them at pleasure, and appoint others in their places.

V. And be it enacted, That it shall be the duty of the said Trustees to invest in good, safe and sufficient securities, all moneys which may at any time come into their hands for the use and support of the said Hospital, which may not be required for the immediate expenditure of the same, and from time to time, when required so to do by the Governor General or Person administering the Government in Council, to render an account in detail of all moneys received by them as such Trustees, specifying the sources from which the same have arisen or been received, and the manner in which the same have been invested or expended, and all such particulars as may be necessary to shew the state of the funds or endowment, if any, of the said Hospital; and the said Trustees shall also lay an annual statement of their affairs before both houses of the Legislature, within thirty days after the commencement of each Session.

VI. And be it enacted, That the said Trustees, by the name aforesaid, shall have power to sue in any of the Courts in this Province having competent jurisdiction, for any cause of action touching the property of the said Trustees, and for any moneys due or payable to them or their predecessors for the rent or rents of any lands or buildings, or on any account whatever; and to distrain for rents when the same are in arrear and unpaid, and to act in all matters touching the collection and control of the funds of the said Hospital and the management and disposition of any lands belonging to the same, as to them or a majority of them shall appear most conducive to the interests of their trust; and no individual of the said Trustees shall be held responsible for any act or acts of the said Trustees which shall be done or determined upon at any meeting at which he shall not have been present, or from which he shall dissent, provided such dissent be entered and signed by him on the minutes to be kept as aforesaid.

Power of Trustees to bring suits.

Trustees not responsible in certain cases.

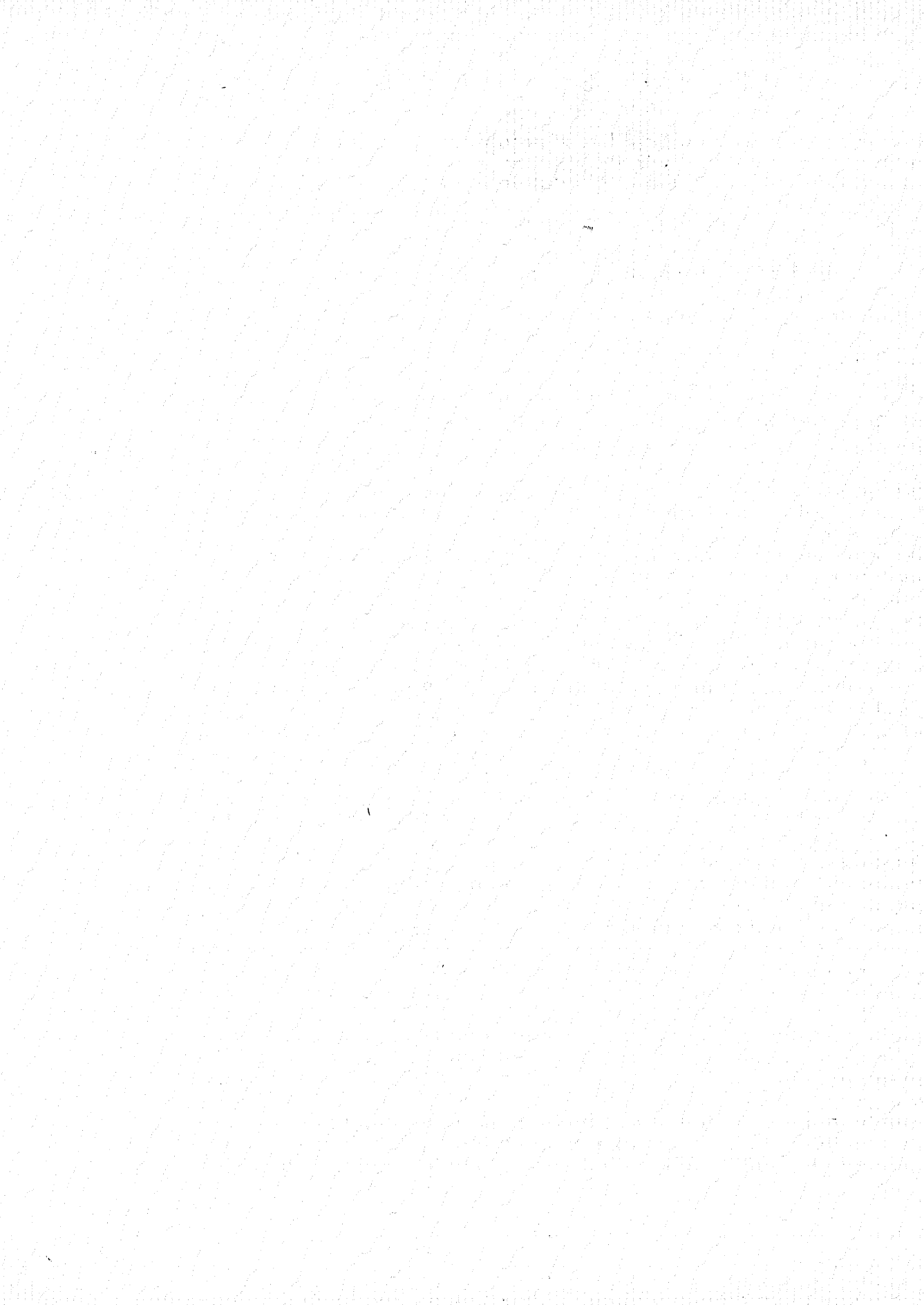
VII. And be it enacted, That it shall and may be lawful for any Medical Student in the said City of Kingston, to visit the Wards of the said Hospital and attend them, upon the payment of such fees, and under such regulations and instructions as the said Trustees shall and may by any By-law from time to time direct and appoint.

Medical Students may visit the Hospital.

VIII. And be it enacted, That this Act shall be a Public Act, and shall be judicially noticed as such by all Judges, Justices of the Peace and others, without being specially pleaded.

Public Act.

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ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CIV.

An Act to amend an Act therein mentioned, and to vest the Toronto General Burying Ground in certain Trustees, and their Successors.

[30th May, 1849.]

WHEREAS it hath been represented that of the Trustees named in a certain Act of the Parliament of Upper Canada, passed in the seventh year of the Reign of His late Majesty, King George the Fourth, intituled, *An Act to authorize certain persons therein named, and their successors, to hold certain Lands for the purpose therein mentioned*, two have departed this life, and one is no longer willing to take an active part in the execution of the trust; And whereas the provision made by the said Act for perpetuating the Trust thereby created is inconvenient and ineffectual, and it is therefore expedient to name new Trustees for the purposes of the said Act, and to make better provision for perpetuating the succession of such Trustees than is made by the said Act: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the second section of the said Act, and so much of the first section thereof as limits or may be construed to limit the number of such Trustees to five, be, and the same are hereby repealed; and that James Leslie, David Paterson, Peter Freeland, and William McMaster, and their successors, be, and they are hereby declared to be, to all intents and purposes, Trustees under the said Act, in succession to, and in lieu and stead of the late Peter Patterson and Thomas Carrae, the younger, deceased; and jointly with John Ewart, Thomas David Morrison, and Thomas Helliwell, the surviving Trustees and their successors; and that the land now held under the said Act be, and the same is hereby legally vested in the said John Ewart, Thomas David Morrison, Thomas Helliwell, James Leslie, David Paterson, Peter Freeland and William McMaster, and their successors, not being more than seven in number at any one time, and in the surviving or remaining Trustees for the time being during any vacancy among them.

Preamble.

Act of U. C. 7
 G. 4. c. 21,
 cited.

The said Act
 repealed in
 part.

Certain persons appointed
 Trustees and
 the land vested
 in them.

II. And be it enacted, That it shall be lawful for any of the said Trustees, or their successors, to resign the trust held by him in virtue of the said Act, or of this Act, at any time or times hereafter by letter addressed to any other of the Trustees for the time being.

Trustees may
 resign, and
 how.

III.

Trustees may fill up any vacancy in their number by election.

III. And be it enacted, That it shall be the duty of each and every of the Trustees for the time being, who shall become aware of the death or resignation of any other Trustee, forthwith to call a meeting of the surviving or remaining Trustees, for some lawful day, not being less than eight nor more than twelve days thereafter, (unless such meeting have been already called by some other Trustee,) for the purpose of proceeding to fill the vacancy by election from among the inhabitant householders of the City of Toronto; and the person so elected by the surviving or remaining Trustees, or the majority of them, shall be a Trustee to all the intents and purposes of the said Act, and of this Act in succession to and in lieu and stead of the Trustee who shall have died or resigned as aforesaid, until or unless a different successor be appointed in the manner hereinafter mentioned.

Proviso as to notice.

Inhabitant householders of Toronto may elect a Trustee to supersede the one elected by the Trustees.

IV. Provided always, and be it enacted, That no such election of a Trustee as aforesaid shall be valid until nor unless a notice of his election shall have been inserted in the *Canada Gazette*; and that if at any time within one month from the insertion of such notice, the majority of the inhabitant householders of the City of Toronto, present at a public meeting called for that purpose by notice, inserted at least twice, in two or more newspapers published in Toronto, shall agree to elect any inhabitant householder of the said City, other than the one elected by the surviving or remaining Trustees, or a majority of them as aforesaid, to fill such vacancy as aforesaid, then such person so elected at such public meeting shall supersede the person elected by such surviving or remaining Trustees as aforesaid, and shall from thenceforth be in his lieu and stead a Trustee to all the intents and purposes of the said Act, and of this Act, in direct succession to and in lieu and stead of the Trustee who shall have died or resigned as aforesaid; but all acts done or concurred in by any Trustee so superseded, in the interval between the notification of his election in the *Canada Gazette* as aforesaid, and his being superseded as aforesaid, shall be and continue as valid and effectual to all intents and purposes as they would be if such Trustee were not superseded.

Name assigned to the land.

V. And be it enacted, That the parcel or tract of land now held by the Trustees named in the said Act, shall, from henceforth, be called "The Toronto General Burying Ground."

Import of certain words.

VI. And be it enacted, That words in this Act importing the singular number only shall be construed to include more than one person, thing, or act of the same kind, unless there be something in the context inconsistent with or repugnant to such construction.

Public Act.

VII. And be it enacted, That this Act shall be a Public Act, and shall be judicially noticed as such.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CV.

An Act to enable the Rector and Church Wardens of the Protestant Episcopal Church of St. James, Toronto, to lease part of the Land heretofore occupied by them as the site of a Church and Burying Ground.

[30th May, 1849.]

WHEREAS the Congregation of St. James' Church, Toronto, in Vestry meeting assembled, have by their petition prayed that an Act of the Legislature may be passed to remove any doubts that may exist as to the right of the said Vestry to authorize the leasing of certain Lands, situate in the City of Toronto, heretofore granted to certain Trustees for the site of a Church and Burial Ground for the said Congregation, and it is expedient that the prayer of the said Petition be granted: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall and may be lawful to and for the Rector and Church Wardens of the said Church of St. James, for the time being, to lease by indenture under their hands and seals, so much and such part of the said piece of parcel of Land in the said City of Toronto heretofore occupied by them as the site of a Church and Burial Ground, for such term of years and upon such conditions as the said Vestry of St. James' Church in Vestry assembled shall from time to time direct and appoint.

Preamble.

The Rector and Church-warden empowered to lease certain land.

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ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CVI.

An Act to confirm the Title of the Calvinistic Baptist Congregation of Perth,
to a certain piece of Land in that Town

[30th May, 1849.]

WHEREAS the Act passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, and intituled, *An Act to enable the Trustees of the Calvinistic Baptist Church in the Town of Perth, to sell and convey certain portions of the Land now holden by them*, was passed with the consent of all the parties mentioned therein, the said parties then believing that the only thechnical defect preventing the deed therein mentioned as being executed by James Boulton on the sixth day of May, one thousand eight hundred and forty-four, from having the effect intended by the said James Boulton and the grantees therein named, was the want of a clause therein, giving the grantees and their successors in office power to alienate the land thereby conveyed to them or any portion thereof, which power it was the intention of the grantor to give, in pursuance of the agreement which the said deed was intended to carry into effect; And whereas it appears that there is no clause in the said deed specifying the manner in which the successors of the Trustees should be appointed, as by the laws in force in Upper Canada there ought to be, and it is right and expedient to give full effect to the Act aforesaid and to the agreement of the parties as therein stated: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the deed mentioned in the Preamble to this Act shall be construed and have effect, as if it had been therein specified that the successors of the grantees as Trustees for the Calvinistic Baptist Congregation (or Church) in the Town of Perth, should be appointed by the Members of the said Church, yearly, from among the Members thereof, and according to the Rules and Constitution of the said Church for the time then being, (which is hereby declared to be for all the purposes of the laws of Upper Canada in that behalf, a sufficient specification of the manner in which the successors of the said grantees as such Trustees as aforesaid should and shall be appointed) and as if full power had been thereby vested in the said Trustees and their successors so appointed, to grant, bargain, sell, alien, transfer, convey and confirm any portion of the land in and by the said deed mentioned and conveyed; and the deed of bargain and sale made and executed by John Campbell, Duncan Campbell, William Ritchie, John

Preamble.
10 & 11 V. c.
106, cited.
Recital.

How the said
deed of 6th
May, 1844,
shall be con-
strued and
take effect.

Deed of 26th
Decr., 1844,
by the Trus-

McDiarmid

tees to Mur-
doch McDon-
nell confirmed.

McDiarmid and Thomas McLean, as Trustees for the said Calvinistic Baptist Congregation, on the twenty-eighth day of December, one thousand eight hundred and forty-four, conveying and confirming to Murdoch McDonnell, of the Town of Perth, merchant, a certain parcel or tract of land and premises situate, lying and being in the Township of Drummond, in the County of Lanard, in the District of Bathurst, and Province of Canada, containing by admeasurement one acre and a quarter, be the same more or less, being composed of part of Park lot number one, in the south-west half of lot number two, in the second concession of the Township of Drummond aforesaid, shall be construed and have effect as if this Act and the Act hereinbefore cited had been in force at the time when the said deed was executed, and the said deed shall be held to be and to have been a good, lawful and valid conveyance of the lot of land therein mentioned to the said Murdoch McDonnell, his heirs and assigns for ever.

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ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CVII.

An Act to incorporate *The College of Bytown.*

[30th May, 1849.]

WHEREAS His Lordship, Joseph Eugène, Roman Catholic Bishop of Bytown, hath by his Petition to the Legislature represented that a College hath been established at Bytown for the education of youth, and hath prayed that corporate powers be conferred on the said College, and in consideration of the great advantages to be derived from the said Institution, it is expedient to grant the prayer of the said Petition : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the said College, which shall be composed of the Roman Catholic Bishop of Bytown as President thereof, the Superior of the said College, the Curé of the Parish of Bytown, the Director of the said College, the Professors of Philosophy and *Belles Lettres*, and the Bursar of the said College, together with all such other necessary officers as may be hereafter appointed under the provisions of this Act, and their several and respective successors,—shall be and is hereby constituted a Body Politic and Corporate in deed and in name, by and under the name of *The College of Bytown*, and by that name shall have perpetual succession and a common seal, and shall have power, from time to time, to alter, renew, or change such common seal at their pleasure, and shall, by the same name, from time to time and at all times hereafter, be able and capable to purchase, acquire, hold, possess and enjoy, and to have, take, and receive, to them and their successors, to and for the uses and purposes of the said Corporation, any lands, tenements, and hereditaments, and real or immoveable property and estate, situate, lying and being within this Province, not exceeding in yearly value the sum of two thousand pounds currency, and the same to sell, alienate and dispose of, and to purchase others in their stead for the same purpose ; and by the said name shall and may be able and capable in law to sue and be sued, implead and be impleaded, answer and be answered unto in all courts of law and places whatsoever, in as large, ample and beneficial a manner as any other body politic or corporate, or as any persons able or capable in law may or can sue and be sued, implead and be impleaded, answer and be answered unto in any matter whatsoever ; and any majority of the members of the Corporation for the time being, shall have power and authority to make and establish such By-laws, Rules, Orders and Regulations, not being contrary to this Act, nor to the

Preamble.

College incorporated as *The College of Bytown.*

Corporate powers.

Holding real property.

Value limited.

Making By-laws.

laws

laws in force in this Province, as shall be deemed useful or necessary for the interests of the said Corporation, and for the management thereof, and for the admission of Members into the said Corporation, and from time to time to alter, repeal and change the said By-laws, Rules, Orders and Regulations or any of them, or those of the said Institution in force at the time of the passing of this Act; and shall and may do, execute and perform all and singular other the matters and things relating to the said Corporation and the management thereof, or which shall or may appertain thereto; subject, nevertheless, to the rules, regulations, stipulations and provisions hereinafter prescribed and established.

General powers.

To what purposes only the revenue of the Corporation shall be applied.

II. Provided always, and be it enacted, That the rents, revenues, issues and profits of all property, real or personal, held by the said Corporation, shall be appropriated and applied solely to the maintenance of the Members of the Corporation, the construction and repair of the buildings requisite for the purposes of the said Corporation, and to the advancement of education by the instruction of youth, and the payment of the expenses to be incurred for objects legitimately connected with or depending on the purposes aforesaid.

Property of the present Institution vested in the Corporation, and its By-laws made those of the Corporation until altered.

III. And be it enacted, That all and every the estate and property real and personal belonging to or hereafter to be acquired by the Members of the said Institution as such, and all debts, claims and rights whatsoever due to them in that quality, shall be and are hereby vested in the Corporation hereby established; and the By-laws, Rules, Orders and Regulations now made for the management of the said Institution, shall be and continue to be the By-laws, Rules, Orders and Regulations of the said Corporation until altered or repealed in the manner herein provided.

Corporation may appoint Attorneys, Officers, &c.

Powers of Officers.

IV. And be it enacted, That the Members of the said Corporation for the time being, or a majority of them, shall have power to appoint such Attorney or Attorneys, Administrator or Administrators of the property of the Corporation, and such Officers and Teachers and Servants of the said Corporation as shall be necessary for the well conducting of the business and affairs thereof, and to allow to them such compensation for their services respectively as shall be reasonable and proper; and all Officers so appointed shall be capable of exercising such other powers and authority for the well governing and ordering of the affairs of the said Corporation, as shall be prescribed by the By-laws, Rules, Orders and Regulations of the said Corporation.

Individual Members not to be liable for the debts of the Corporation.

V. And be it enacted, That nothing herein contained shall have the effect or be construed to have the effect, of rendering all or any of the Members of the said Corporation, or any person whatsoever individually liable or accountable for or by reason of any debt, contract or security incurred or entered into for or by reason of the Corporation, or for or on account or in respect of any matter or thing whatsoever relating to the said Corporation.

Corporation to lay yearly before the Legislature a statement of their property, &c.

VI. And be it enacted, That it shall be the duty of the said Corporation to lay before each branch of the Provincial Legislature within fifteen days after the beginning of each Session, a detailed Statement of the number of Members of the said Corporation, the number of Teachers employed in the various branches of instruction, the number of Scholars under instruction, and the course of instruction pursued, and of the real or immoveable property or estate held by virtue of the present Act, and of the revenue arising therefrom.

VII. And be it enacted, That nothing herein shall affect, or be construed to affect in any manner or way, the rights of Her Majesty, Her Heirs or Successors, or of any person or persons, or of any body politic or corporate, such only excepted as are hereinbefore mentioned and provided for.

Rights of the
Crown saved.

VIII. And be it enacted, That this Act shall be deemed to be a Public Act, and shall be judicially taken notice of as such by all Judges, Justices of the Peace and other persons whatsoever, without being specially pleaded.

Act to be a
Public Act.

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ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CVIII.

An Act to incorporate *La Communauté des Révérendes Sœurs de la Charité*,
at Bytown.

[30th May, 1849.]

WHEREAS an Association hath existed for several years at Bytown, in Upper
Canada, under the name of *La Communauté des Révérendes Sœurs de la*
Charité, and hath established an Hospital for the reception and care of indigent and
infirm sick persons of both sexes, and of orphans of both sexes, to whom they impart
a Christian education in conformity with their condition in life : And whereas the said
Ladies have by their Petition prayed that the said Association may be incorporated,
and in consideration of the great benefits which must arise from the said Institution, it
is expedient to grant their prayer : Be it enacted by the Queen's Most Excellent
Majesty, by and with the advice and consent of the Legislative Council and of the
Legislative Assembly of the Province of Canada, constituted and assembled by virtue
of and under the authority of an Act passed in the Parliament of the United Kingdom
of Great Britain and Ireland, and intituled : *An Act to re-unite the Provinces of Upper*
and Lower Canada, and for the Government of Canada ; and it is hereby enacted by
the authority of the same, That *Les Révérendes Sœurs* Elizabeth Bruyère, Eléonore
Thibodeau, Marie Ursule Cécile Charlebois *dite* St. Joseph, Hélène Antoinette Howard
dite Rodriguez, Pétronille Clément *dite* Xavier, Marguerite Rivais, Marie Anne José-
phine Jones *dite* St. Pierre, Marth Hogan, Adélaïde Pageau *dite* Ste. Croix, Marie
Curran *dite* Youville, Mary Phelan, Eléonore Lavoie, Esther Cadieux *dite* Normand,
Rose Leblanc and Léocadie Dubé, and such other persons as shall, under the provisions
of this Act, become Members of the said Institution, shall be and are hereby declared
to be a Body Politic and Corporate, in deed and in name, by the name of *La Commu-*
nauté des Révérendes Sœurs de la Charité, and by that name shall have perpetual suc-
cession and a common seal, and shall have power from time to time to alter, renew or
change such common seal at their pleasure, and shall by the same name, from time to
time and at all times hereafter, be able and capable to purchase, acquire, hold, possess
and enjoy, and to have, take and receive to them and their successors, to and for the
uses and purposes of the said Corporation, any lands, tenements and hereditaments,
and real or immoveable property and estate, situate, lying and being within this Pro-
vince, not exceeding in yearly value the sum of two thousand pounds, currency ; and
the same to sell, alienate and dispose of, and to purchase others in their stead, for the
same purpose ; and by the said name shall and may be able and capable in law, to sue
and be sued, implead and be impleaded, answer and be answered unto, in all Courts of
Law and places whatsoever, in as large, ample and beneficial a manner as any other
body

Preamble.

Certain per-
sons incor-
porated.

Corporate
name and
powers.

Holding real
property.

Value limited.

Suing and
being sued.

Making By-laws.

General powers.

To what purposes only the revenue of the Corporation shall be applied.

Property of the present Association vested in the Corporation, and its By-laws made those of the Corporation until altered.

Corporation may appoint Attorneys, Officers, &c.

Powers of Officers.

Individual Members not to be liable for the debts of the Corporation.

Corporation to lay yearly before the Legislature a statement of their property.

boby politic or corporate, or as any persons able or capable in law, may or can sue and be sued, implead and impleaded, answer and be answered unto, in any matter whatsoever ; and any majority of the Members of the Corporation for the time being shall have power and authority to make and establish such Rules, Orders and Regulations, not being contrary to this Act, nor to the laws in force in this Province, as shall be deemed useful or necessary for the interests of the said Corporation, and for the management thereof, and for the admission of Members into the said Corporation, and from time to time to alter, repeal and change the said Rules, Orders and Regulations, or any of them, or those of the said Institution in force at the time of the passing of this Act ; and shall and may do, execute and perform all and singular other the matters and things relating to the said Corporation and the management thereof, or which shall or may appertain thereto ; subject, nevertheless, to the Rules, Regulations, Stipulations and Provisions hereinafter prescribed and established.

II. Provided always, and be it enacted, That the rents, revenues, issues and profits of all property, real or personal, held by the said Corporation, shall be appropriated and applied solely to the maintenance of the Members of the Corporation, the construction and repair of the buildings requisite for the purposes of the said Corporation, and to the advancement of education, and the payment of the expenses to be incurred for objects legitimately connected with or depending on the purposes aforesaid.

III. And be it enacted, That all and every the estate and property, real and personal, belonging to or hereafter to be acquired by the Members of the said Association as such, and all debts, claims and rights whatsoever due to them in that quality, shall be and are hereby vested in the Corporation hereby established ; and the Rules, Orders and Regulations now made or to be made for the management of the said Association, shall be and continue to be the Rules, Orders and Regulations of the said Corporation until altered or repealed in the manner herein provided.

IV. And be it enacted, That the Members of the said Corporation for the time being, or a majority of them, shall have power to appoint such Attorney or Attorneys, Administrator or Administrators of the property of the Corporation, and such Officers and Teachers and Servants of the said Corporation as shall be necessary for the well conducting of the business and affairs thereof, and to allow to them such compensation for their services respectively as shall be reasonable and proper ; and all Officers so appointed shall be capable of exercising such other powers and authority for the well governing and ordering of the affairs of the said Corporation as shall be prescribed by the Rules, Orders and Regulations of the said Corporation.

V. And be it enacted, That nothing herein contained shall have the effect or be construed to have the effect of rendering all or any of the said several persons hereinbefore mentioned, or all or any of the Members of the said Corporation, or any person whatsoever, individually liable or accountable for or by reason of any debt, contract or security incurred or entered into for or by reason of the Corporation, or for or on account or in respect of any matter or thing whatsoever relating to the said Corporation.

VI. And be it enacted, That it shall be the duty of the said Corporation to lay before each branch of the Provincial Legislature within fifteen days after the beginning of each Session, a detailed Statement of the real or immoveable property or estate held by virtue of the present Act, and of the revenue arising therefrom.

VII.

VII. And be it enacted, That nothing herein shall affect or be construed to affect in any manner or way, the rights of Her Majesty, Her Heirs or Successors, or of any person or persons, or of any body politic or corporate, such only excepted as are herein-before mentioned and provided for. Rights of the Crown saved.

VIII. And be it enacted, That this Act shall be deemed to be a Public Act, and shall be judicially taken notice of as such by all Judges, Justices of the Peace, or other persons whatsoever, without being specially pleaded. Act to be a Public Act.

MONTREAL : Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.





ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CIX.

An Act to incorporate *The Hamilton Mercantile Library Association.*

[30th May, 1849.]

WHEREAS an Association hath been formed in the City of Hamilton, in this Province, by divers persons engaged as commercial, mercantile, banking and professional clerks, resident in that city and the neighbourhood thereof, under the name of "The Hamilton Mercantile Library Association," for the purpose of forming a Library and News Room for organising a system of instruction by means of lectures, and for other literary purposes connected therewith, for the use and benefit of the Members of the said Association, and of such commercial, mercantile, banking and professional clerks as may hereafter become Members thereof: And whereas D. A. Macnabb, President; C. J. Jones, Vice-President; William Harvey, Treasurer; J. B. Ellison, Corresponding Secretary; A. W. B. Swain, Recording Secretary; P. B. Spahn, A. J. Mackenzie, Alexander Davidson, Colin Macrae and Andrew Parke, Directors, the present Office-bearers, acting in behalf of the said Association, have by their Petition to the Legislature, represented that the said Association have already acquired by purchase and by gift a valuable collection of books and other necessary property, and have established through the aid of the merchants and others of the city of Hamilton, a News Room adapted to promote the mercantile and other interests of the said City, and have agreeably to the objects of the said institution, caused lectures to be delivered for instruction in various branches of knowledge, necessary or advantageous to the said associates in their pursuits in life; and have further represented, that in order to obtain the advantages resulting from the said Association to that class of the community of which they form a part, as well as to meet the wants of the mercantile interests of the said City of Hamilton, it is necessary that the said Association be incorporated, and have prayed to be so incorporated: And whereas it is expedient to grant the prayer of the said Petition, subject, nevertheless, to the provisions and enactments hereinafter set forth and made in that behalf: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that the above-mentioned Office-bearers, with all such other persons as now are, or may hereafter become Members of the said Association in accordance with the provisions aforesaid, and their successors for ever, shall be and they are hereby constituted a Body Politic and Corporate, by the name of

Preamble.

Names of
Petitioners.

Certain persons incorporated.

The

Corporate name.
Corporate powers.

Real property.

Value limited.

The Hamilton Mercantile Library Association, and shall by that name have perpetual succession and a common seal, and shall have power from time to time to alter, renew or change such common seal at their pleasure, and shall by the same name from time to time and at all times hereafter be able and capable to have, take, receive, purchase, acquire, hold, possess and enjoy to them and their successors as aforesaid, to and for the uses and purposes of the said Corporation, any messuages, lands, tenements and hereditaments of what nature, kind or quality whatsoever, situate, lying and being within the Province, not exceeding in yearly value the sum of one thousand pounds currency; and also to take, receive, purchase, acquire, have, hold and possess, provided the same do not exceed a like sum in yearly value, to and for the same uses and purposes, any goods, chattels, gifts and benefactions whatsoever, and shall and may by the same name be able and capable to sue in law and to be sued, to implead and to be impleaded, answer and to be answered unto, in all Courts of law and all places whatsoever, in all and singular actions, causes, pleas, suits, matters and demands whatsoever, in as large, ample and beneficial a manner and form as any other body politic or corporate, or any persons able and capable in law may or can sue, implead or answer, or be sued, impleaded or answered in any manner whatsoever.

As to service of Process on the Corporation.

II. And be it enacted, That in all and every suit or suits at law which may hereafter be instituted against the said Corporation, service of Process, at the rooms of the said Corporation, shall be held a sufficient service for all purposes of law.

General meetings of the Members.

Election of Officers.

Other things to be done at such meetings.
Proviso: for failure of any election.

III. And for the better accomplishment of the purposes hereinbefore mentioned— Be it enacted, That the Members of the said Corporation, and their successors for ever, shall, on the second Monday of February, in each and every year hereafter, meet at some convenient place to be appointed by the said Corporation, or the major part of those who shall be present at any general meeting between the hours of ten in the forenoon and ten in the evening, and that they, or the major part of such of them as shall be there present, shall choose one President, one Vice-President, one Treasurer, five Directors, and one or more Secretary or Secretaries, and such other Officers and Servants as they or such major part of them shall deem expedient, to serve in the said offices during the year then next ensuing; and may do and transact all matters and business relative to the interests of the said Corporation; and if by reason of any matter or thing soever, the election so to be had, and made on the second Monday of February as aforesaid, shall be prevented or shall not be had or made, then and in every such case it shall be competent to the Members of the said Corporation and their successors, or to the major part of such of them as may be present at a meeting to be called by the President or Vice-President for the time being, in the manner hereinafter prescribed, and held as soon after as shall be convenient, to proceed to and make the election of a President, Vice-President, Treasurer, Directors, Secretary or Secretaries, and Officers and Servants as aforesaid, and the elections so made shall be as valid and effectual as if they had been made on such second Monday of February, and the President and other Officers of the said Corporation theretofore elected shall continue in office until others shall be elected in their stead, any thing hereinbefore contained to the contrary notwithstanding; Provided always, that the President, Vice-President, Treasurer, Directors and Secretary or Secretaries as aforesaid, to be elected at any general election of Officers under and by virtue of the provisions of this Act, shall not enter upon nor act in the discharge of their respective offices until the second Monday next ensuing after such general election.

Proviso: When Officers elected shall enter on their duties.

IV. And be it enacted, That until the first election of Officers shall take place as herein provided, the present Officers of the said Association shall be and continue to be the Officers of the Corporation hereby created, and that the President, or in his absence from the City of Hamilton, the Vice-President of the said Corporation shall, within three months after the passing of this Act, cause notice to be given to such of the Members of the said Corporation as shall be then resident in the said City of Hamilton, by public advertisement to be published ten days at least previously in one or more newspapers at Hamilton, to meet at such place and time as he shall in and by such notice appoint, and the said Members, or the major part of such of them as shall be then present, shall, at the time and place so appointed, proceed to the election of a President, and of a Vice-President, Treasurer, Directors, Secretary or Secretaries, and of such other Officers and Servants as to them shall seem meet, which said Officers from the time of their election to their respective offices shall continue therein until the second Monday of February then next ensuing, and from thenceforth until others be chosen in their places in the manner aforesaid.

Present Officers to continue until first election.

President to call a meeting.

First election of Officers.

Period of service.

V. And be it enacted, That if at any time or times it shall happen that any of the persons chosen to fill the said offices respectively, shall die or be removed from the said offices, or resign the same during the period for which they shall have been respectively elected, then in every such case it shall be lawful and competent for the remaining Officers of the said Corporation, or the major part of such of them as may be present at any duly appointed meeting, to choose a Member or Members of the Corporation to fill the office or offices so vacated: Provided always, that the person or persons who may be thus elected shall retain the said office or offices only until the next ensuing annual election of Officers as hereinbefore provided, and no longer.

Vacancies occurring between the elections how filled.

Proviso.

VI. And be it enacted, That the Members of the said Corporation, or the major part of those who shall be present at any general meeting of the said Corporation, held according to the requirements and provisions of this Act, shall have power and authority to frame and make By-laws, Rules and Regulations touching and concerning the good government of the said Corporation and the income and property thereof, and any other matter or thing relative to the same which to them may seem fit or expedient for the effectual attainment of the objects of the said Corporation and the administration of its concerns, and also from time to time by such new By-laws, Rules and Regulations as to them shall seem meet, to alter or repeal those so made as aforesaid: Provided always, that no such repeal or alteration shall be valid unless notice of the motion for such repeal or alteration shall have been placed in some conspicuous part of the usual place of meeting of the said Corporation for at least one calendar month previous to the general meeting, at which such motion shall be made and considered: Provided also, that no such Statutes, By-laws, Rules or Orders shall be contrary or repugnant to the laws of this Province or to the provisions of this Act.

Power to make By-laws for certain purposes.

To alter or repeal them.

Proviso.

VII. And be it enacted, That none of the Members of the said Corporation shall be personally liable for the debts of the said Corporation.

Non-liability of Members.

VIII. And be it enacted, That this Act shall be held and considered to be a Public Act, and shall judicially be taken notice of as such in all Courts of Justice, by all Judges and Justices of the Peace, and all others whom it may concern, without being specially pleaded.

Act to be a Public Act.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CX.

An Act to incorporate *The Hamilton and Gore Mechanics' Institute.*

[30th May, 1849.]

WHEREAS an Association hath been formed in the City of Hamilton in this Province, by divers persons engaged as Mechanics and otherwise, resident in and near that City, under the name of *The Hamilton and Gore Mechanics' Institute*, for the purpose of diffusing Scientific and Literary Knowledge, by a Library of reference and circulation; by the formation of a Museum of Specimens in Zoology, Geology, or other subjects of Nature, Science, or Manufactures; by Lectures, by Philosophical Apparatus, by conversations, and by any other method the Committee may judge necessary: And whereas the persons hereinafter named, Office-Bearers of the said Association, acting in behalf of the Members thereof, have by their Petition to the Legislature represented that the said Association was originally founded in the year eighteen hundred and thirty-nine, for the purposes above mentioned; and the Petitioners have further represented that the benefits derivable from the said Association would not only be secured, but be greatly enhanced by the Incorporation of the Members thereof, and have prayed that they may be so incorporated: And whereas it is expedient to grant the prayer of the said Petitioners, subject to the provisions and enactments hereinafter made: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That Edward Cartwright Thomas, President; William G. Kerr and William Lockton Billings, Vice-Presidents; Sir Allan N. MacNab, Colin C. Ferrie, John Young, Nehemiah Ford, J. T. Brondgeest, William Hilton, Robert McElroy, William McMillan, William Leggo, S. J. Jones, James Robinson, N. P. Distin, Thos. M. Simons, Charles H. Stokoe, Thomas Simpson, S. S. Ware, Thomas Haines, James Stewart, Hugh C. Baker, D. M'Lellan and Samuel Kirkendall, with all such other persons as now are, or being duly competent may hereafter be associated with them for the purposes hereinbefore mentioned, and their successors for ever, shall be one Body Politic and Corporate in deed and in name, by the name and style of *The Hamilton and Gore Mechanics' Institute*, and by that name shall have perpetual succession and a common seal, and shall have power from time to time to alter, renew or change such common seal at their pleasure, and shall by the same name from time to time, and at all times hereafter, be able and capable to have, receive, take, purchase, acquire, hold, possess

Preamble.

Certain persons incorporated.

Corporate name and powers.

Amount of
real property
limited.

Suing and
being sued.

As to service
of Process
upon the Cor-
poration.

Election of
Officers.

Annual Meet-
ing for election
when and
where to be
held.
Proviso as to

possess and enjoy to them and their successors as aforesaid, by the name of *The Hamilton and Gore Mechanics' Institute*, to and for the uses of the said Corporation, any messuages, lands, tenements and hereditaments, of what nature, kind or quality soever, situate, lying and being within this Province, not exceeding in yearly value the sum of one thousand pounds currency: And also, by the said Corporate Name to grant, bargain, sell, alien, assure, assign, convey, mortgage, encumber, lease or let the same, or any part thereof, at any time or times, in as ample and effectual a manner to all intents and purposes as could be done by a private individual in such manner, for such purposes and to such uses, as by the Rules of the said Corporation and the directions thereof duly given, they may be empowered (subject however to the provisions hereinafter in that behalf contained;) and also to take, receive, purchase, acquire, have, hold and possess (provided the same do not exceed a like sum in yearly value) to and for the same uses and purposes, any goods, chattels, gifts or benefactions whatsoever; and also to sell and convey the same or any part thereof in as ample and full a manner, and by the same authority as is above mentioned with regard to real property (also subject to the provisions hereinafter in that behalf contained,) and shall and may by the said name of *The Hamilton and Gore Mechanics' Institute*, be able and capable to sue and be sued, implead and be impleaded, answer and be answered unto in all Courts of Law or Equity and places whatsoever in all and singular actions, causes, pleas, suits, matters and demands whatsoever, in as large, ample and beneficial a manner and form as any other body politic or corporate, or any persons able and capable in law may or can sue or be sued, impleaded or answered in any manner whatsoever; and shall also by the said name take all conveyances and assurances of whatever description; and by the same name convey, assure, lease, or part with real, personal or mixed property.

II. And be it enacted, That in all and every suit or suits in law or equity, which may hereafter be instituted against the said Corporation, service of Process at the residence of the President, or of the Secretary for the time being, shall be sufficient to compel the said Corporation to appear and plead to such suit or suits, and in case no appearance is made to the said suit or suits, service of all subsequent proceedings in such suit or suits shall be made either personally on the President, or the Secretary for the time being, or at the residence or place of business of one or other of the same Officers; any law, custom or usage to the contrary in any wise notwithstanding.

III. And be it enacted, That for the management of the affairs of the said Corporation, there shall be elected by the Honorary and Ordinary Members of the said Corporation, from their own number, and by a majority of the votes of the Members present (who shall vote by ballot) at the Special or Annual Meetings hereafter provided for, the following Officers, a President, Vice-President, and nine Directors, which nine Directors, together with the two Officers first named, shall constitute and form the Board of Directors of the said Corporation, which Board, shall at its first Meeting after such election, appoint a Secretary from the ordinary Members of the Corporation, and if not already a Member of the Board, he shall be one *ex officio*; they shall also at the said first Meeting appoint, from the number of Directors, a Treasurer and Librarian.

IV. And be it enacted, That the Annual Meeting for the election of the said Board of Directors shall be held at the rooms of the Institute for the time being, on the last Friday of February in each and every year: Provided that the Officers and Committee in office at the passing of this Act shall remain in office, and be considered as acting under

under the provisions of this Statute, until the Annual Election to be held in February, one thousand eight hundred and fifty, and shall have all the powers hereby granted to the contemplated Board of Directors: Provided, that whenever the said last Friday of February shall happen on a public holy-day, the said Annual Meeting shall take place in manner hereafter provided; and the Board of Directors thereat elected shall serve in the said offices during the year then next ensuing, and until others being elected in their stead, shall enter upon the discharge of the duties of their offices as hereinafter provided; and if by reason of any matter or thing soever the elections so to be had and made on the last Friday of February as aforesaid, shall be prevented, or shall not be had or made, then, and in every such case it shall be competent to the Members of the said Corporation and their successors, or to the major part of such of them as may be present at a Meeting to be called by the President, or any of the Vice-Presidents for the time being, in the manner hereinafter prescribed, and held as soon after as shall be convenient, to proceed to and make the election of such Board of Directors as aforesaid; and the election so made shall be as valid and effectual as if it had been made on such last Friday of February.

present Officers.

Proviso: if the day appointed be a holy-day, or the elections otherwise prevented.

V. And be it enacted, That if at any time or times it shall happen that any of the persons chosen to be Members of the Board of Directors shall die, or be removed therefrom, or resign during the period for which they shall have been respectively elected, then and in every such case it shall be lawful and competent for the remaining Members of the said Board of Directors, or a majority of a *quorum* thereof at any duly appointed Meeting of the same Committee, to choose a Member or Members of the Corporation to fill the office or offices so vacated: Provided always, that the person or persons who may be then elected shall retain the said office only until the Members or Members in whose place he or they shall have been appointed would have gone out of office.

Casual vacancies in office of Directors how filled.

Proviso.

VI. And be it enacted, That the said Corporation shall consist of an indefinite number of Ordinary, Junior and Honorary Members, all of whom shall be elected from time to time, in accordance with the Rules and By-laws of the Institute, and shall be chosen according to the forms and under the restrictions and conditions hereinafter prescribed, the Ordinary Members being those above the age of eighteen years, who shall pay and contribute to the funds of the said Corporation such entrance money and annual subscription as may from time to time be enacted by the By-laws, Rules and Regulations of the said Corporation; the Junior Members, being those who are under the age of eighteen years, shall pay and contribute to such funds the entrance money and annual subscription which may as to them be fixed by the said By-laws, Rules and Regulations, but who shall not vote at any Meeting of the said Corporation, nor be eligible to fill any office therein: and the Honorary Members being those only who, having made a donation to the Corporation to the amount of twenty pounds, or who being distinguished for their scientific attainments, or who have signally benefitted the Institute by their services or otherwise, shall be elected as Honorary Members at a General or Annual Meeting of the said Corporation, and shall be entitled to all the privileges of Ordinary Members.

Corporation to consist of Ordinary, Junior and Honorary Members.

Ordinary Members.

Junior Members.

Honorary Members.

VII. And be it enacted, That at all Meetings of the said Board of Directors, five Members thereof shall be a *quorum*, to transact the business of the said Board; and all questions and matters before them shall be decided by a majority of those present at such Meeting.

Five Directors to be a *Quorum*.

VIII.

Special Meetings of Corporation.

VIII. And be it enacted, That the said Corporation may hold Special Meetings, to be called by the President or one of the Vice-Presidents, who are hereby required to call such Meeting or Meetings at the request of a majority of the *quorum* of the Board of Directors or of twelve Members of the Institute, and the Board of Directors may hold Special Meetings on the summons of the President, or the Vice-President, or of any three Members thereof.

Board of Directors to have control of property of Institute—their powers and duties.

IX. And be it enacted, That the Board of Directors shall have the entire control (except as hereinafter mentioned) of all the property of the Institute, real, personal and mixed, and the management of its funds: it shall be their duty to make such purchases of books, apparatus, periodicals, papers, furniture, specimens, models and other articles as they may deem expedient for the prosperity of the Institute; to frame, alter and amend Regulations for the Library and Reading or News Room; to engage and pay Lecturers and Class Teachers; to borrow money or secure debts on the real property only of the Institute, and generally to transact the business of the Institute; provided always, that no purchase or incumbrance of any real property shall be made without the consent of three-fourths of the Members present at a Special Meeting of the said Corporation called for the purpose, of which Meeting notice shall have been given for ten days in at least two of the city newspapers, in which notice shall be fully specified the object of the said Meeting; and that no absolute sale or conveyance of any of the property, real, personal or mixed, of the Corporation, shall be made without the consent of four-fifths of the Members present, at a Special Meeting of the said Corporation, also called for that purpose in manner aforesaid.

Proviso as to purchase, incumbrance or sale of real property.

Power to make By-laws for certain purposes.

X. And be it enacted, That the said Corporation shall from time to time, forever, hereafter have power to make, constitute, ordain and establish, repeal, alter or amend such By-laws, Rules and Regulations (not being contrary to this Act or to law) as they shall judge proper for the mode of election of the said Board of Directors—for prescribing their functions and the mode of discharging the same—for the admission of new members—for the government of the Officers and Members of the Corporation—for prescribing the amount, collecting and appointing the time of payment of the annual contributions of the Ordinary and Junior Members to the funds thereof—for regulating the times and places and mode of summoning the ordinary and special meetings of the said Corporation or of the Board of Directors—for suspending or expelling such Members as shall neglect or refuse to comply with the By-laws and Regulations—for the remuneration of such Officers as they may from time to time require, and taking from those holding responsible situations sufficient security, and generally for the managing and directing of the affairs and concerns of the said Corporation: Provided always, that the By-laws and Regulations now in force in the Association hereby incorporated, where the same are not inconsistent with this Statute, shall remain and be in force until altered or amended under the authority of this Act: And provided, that no such By-law, Rule or Regulation, or any repeal, amendment or alteration thereof shall have effect unless the same shall have been announced and read at a meeting of the Board of Directors at least fourteen days previous to its being submitted for the adoption thereof by the said Corporation, at an annual or special meeting thereof, nor unless the same shall be adopted by a majority of the Members then present.

Proviso as to present By-laws, &c.

Proviso as to repeal of By-laws, &c.

Governor, &c., may require statement of

XI. And be it enacted, That it shall and may be lawful for the Governor or Person administering the Government of the Province for the time being, or for any or either of

of the Branches of the Provincial Parliament from time to time to require from the said Corporation, or from the Board of Directors thereof, true statements under oath of the Secretary or Treasurer of the said Corporation (which oath any Justice of the Peace is hereby authorized and required, upon request, to administer) of the receipts and expenditure of the said Corporation; and a statement of the real and personal estate held and enjoyed by the said Corporation, shall (if required by the said Governor or Person administering the Government of the Province) be laid before each Branch of the Provincial Legislature within fifteen days after the opening of each Session thereof.

affairs of Corporation.

XII. And be it enacted, That the property real and personal now held by the Association hereby incorporated, or by any party in trust for them, shall be and is hereby vested in the said Corporation, which shall be responsible for all debts and obligations of the said Association, and may recover and enforce all claims and obligations in favor thereof.

Property of the Association vested in the Corporation.

XIII. And be it enacted, That nothing in the present Act contained shall affect or be construed to affect in any manner or way whatsoever the rights of Her Majesty, Her Heirs or Successors, or of any person or persons, or of any body politic or corporate, such only excepted as are herein mentioned.

Saving of Her Majesty's rights, &c.

XIV. And be it enacted, That this Act shall be held and considered to be a Public Act, and as such shall be judicially taken notice of, held and considered in all Courts of Justice, and by all Judges and Justices of the Peace, and all others whom it may concern without being specially pleaded.

Public Act.

MONTREAL: Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.





ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CXI.

An Act to enable the Trustees of the Ottawa District Grammar School to sell the present School House, and apply the funds arising from the Sale thereof towards purchasing a new site, and erecting a new School House in the Town of L'Original.

[30 May, 1849.]

WHEREAS by authority of the Provincial Statute of Upper Canada, passed in the eighth year of the Reign of King George the Fourth, and intituled: *An Act to authorize the Reverend John McLaurin to convey to the Ottawa District School Trustees a lot of land for the purposes therein mentioned*, the late Reverend John McLaurin, late of the township of Longueuil, in the District of Ottawa, conveyed to the Trustees of the Ottawa District Grammar School, and their Successors in office, a certain stone building situate in the said Township of Longueuil, and built expressly for a District School House, with one acre of land thereunto attached, for the use of the said District School for ever: And whereas the said School House is in a dilapidated state, and from its distance from the Town of L'Original, is not adapted to the use for which it was intended, and it is expedient to sell the same, and appropriate the funds arising from the sale thereof towards purchasing a site and erecting a new building for the purpose, in the Town of L'Original: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall and may be lawful for Charles Platt Treadwell, Charles Hersey, James Penrose Wells, Thomas Higginson, James Stirling, John Kearns, James McCaul and John Edwards, Esquires, Trustees of the said Ottawa District Grammar School, or a majority of them, to sell the said School House and the land attached thereto, and the said Trustees or a majority of them are hereby empowered and authorized by Deed of Conveyance under their hands and seals to grant, bargain, sell and convey in fee simple, the aforesaid School House, with the land thereunto attached, unto such person or persons as may be disposed to purchase the same.

Preamble.

Act U. C., 8.
G. 4. c. 22,
cited.

Trustees empowered to sell the School House.

II. And be it enacted, That the Trustees aforesaid or a majority of them shall and may, and they are hereby empowered and required to vest the money accruing from the sale of the said School House in the purchase of such other site in the said Town of L'Original as they may in their judgment consider the most advisable for the benefit of

Another site to be purchased with the proceeds, &c.

the

the said trust, and the said Trustees or a majority of them are hereby empowered and required to receive and take a conveyance of the land so to be by them purchased as aforesaid with the money aforesaid, in trust for the use and purpose aforesaid, and with such succession and limitation of the said trust as may be deemed expedient to secure the same in perpetuity for the use and purpose aforesaid, according to the true intent and meaning hereof: Provided always, that in the event of there being any surplus of money in the hands of the said Trustees after purchasing the said site, such balance shall be by them expended in erecting the said School House.

Proviso :
Surplus to be
expended on
the School
House.

MONTREAL: Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP CXII.

An Act to make provision for the erection or repair of Court Houses and Gaols at certain places in Lower Canada.

[30th May, 1849.]

WHEREAS it is expedient to make provision for the erection and repair of the Court Houses and Gaols hereinafter mentioned: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall be lawful for the Governor of this Province to cause a proper Court House to be erected in the City of Montreal, upon the ground belonging to the Civil Government, and lying between the Champ de Mars and Notre Dame Street; such Court House to contain sufficient accommodation for all the Courts to be held in the said City and for the Registry Office for the County of Montreal, and to be erected under the superintendence of the Commissioners of Public Works according to plans and estimates to be approved by the Governor in Council; and that the said Commissioners may offer premiums for the best plans for the same.

Preamble.

Court House at Montreal.

II. And be it enacted, That it shall be lawful for the Governor of this Province to cause a proper Gaol and Court House to be erected at Kamouraska, Aylmer and Chicoutimi, respectively, and also to cause the Court House and Gaol in the Counties of Gaspé and Bonaventure, respectively, to be thoroughly repaired or rebuilt; the said Court Houses and Gaols to be so erected or repaired under the superintendence of the Commissioners of Public Works, and according to plans and estimates to be approved by the Governor in Council.

Court Houses and Gaols at Kamouraska, Aylmer, Chicoutimi, and in Gaspé.

III. And be it enacted, That the expenses of performing the work aforesaid and of carrying this Act into effect shall not be defrayed out of the Consolidated Revenue Fund or other existing funds of this Province; but for the purpose of defraying the said expenses and of purchasing any ground which may be requisite for the site of any such Court House and Gaol, it shall be lawful for the Governor in Council to raise by way of loan, upon debentures to be issued for that purpose, and the interest and principal whereof shall be chargeable upon the special funds hereinafter mentioned, and not upon the Consolidated Revenue Fund or other funds of this Province, a sum not exceeding forty thousand pounds for the said Court House at Montreal, and a sum not exceeding

Loans authorized for defraying expenses incurred under this Act.

five

five thousand pounds for each of the Court Houses and Gaols at Kamouraska, Aylmer and Chicoutimi, and in the said Counties of Gaspé and Bonaventure, respectively; and to make the interest on such debentures (not exceeding eight per cent per annum in any case) payable half yearly, and the principal at such periods as he shall think most for the public advantage.

Duty imposed on money paid into Court or levied under execution, &c.

IV. And be it enacted, That there shall be levied and paid to Her Majesty, a tax or duty of one per cent upon all moneys which after the passing of this Act shall be paid into any Civil Court (*consignés*) sitting at any of the places where any Court House or Gaol is authorized to be erected or repaired under the authority of this Act, or levied under any Writ of Execution issued out of such Court, or arising from any sale made under any Commission of Bankruptcy issued at such place or in the District or County in which it lies; and that such tax or duty shall be retained by the Officer into whose hands such money shall come, and shall be by him paid over for the purposes of this Act, at such times, in such manner and to such Officer or person as the Governor shall from time to time direct; and that such tax or duty shall be payable at each of the places aforesaid, from the passing of this Act, until the day to be appointed for the ceasing thereof at such places respectively, by order of the Governor in Council.

Governor in Council may impose a tax on proceedings in Court or before the Judges, &c., at certain places.

V. And be it enacted, That the Governor in Council shall have full power and authority by any Order or Orders in Council to be from time to time made for such purpose, to impose such duty or tax upon all or any proceedings in all or any of the Courts of Civil Jurisdiction sitting at any of the places aforesaid, or in appeal from judgments of such Courts, and upon the closing of inventories, assemblies of relations and friends, insinuations or registrations in the offices of such Courts, the appointments of Tutors or Curators, affixing or taking of seals of safe custody, probates of wills or other like matters, or on the registration of deeds and instruments in the Registry Offices at such places respectively, as shall in his opinion be sufficient to produce sums sufficient to pay the principal and interest on the Debentures to be issued under this Act, at the periods appointed for the payment thereof, and to make such tax or duty payable in such manner and to such Officer, and to require such Officer to pay over the same for the purposes of this Act to the Receiver General or other proper Officer, at such times as he shall think proper; and to make such other regulations and provisions as to such tax or duty and the payment thereof as he shall deem advisable, and to direct that any proceeding or thing upon which a tax or duty is made payable, shall not be done or if done shall be of no legal effect, until such tax or duty be paid; and from time to time to repeal or alter any such Order in Council or any part thereof by any subsequent Order in Council; and all Orders in Council made under the authority of this Act shall have the same force and effect as if the requirements and provisions thereof were enactments of the Provincial Parliament, and any copy of any such Order in Council, printed in the *Canada Gazette* shall be evidence of the contents thereof in all Courts in this Province: Provided always, that the Court or Judge having the power to tax the costs in any case in which any tax or duty shall be payable under this Act or any Order in Council made under it, shall have full power to decide by what party the same shall be borne, according to the justice of the case, and if necessary to order such sum as may be requisite to cover such tax or duty to be levied in addition to the sum otherwise leviable.

What may be regulated by the order in Council relating to such taxes.

Proviso as to the party by whom the tax shall be borne.

Certain fines, &c., appropriated.

VI. And be it enacted, That all moneys arising from fines and penalties paid into the hands of the Clerk of the Peace or of the Crown, from the forfeiture of Bonds or Recognizances,

Recognizances, at such places as aforesaid respectively, and not forming part of the Consolidated Revenue Fund of this Province, shall be and are hereby appropriated to the purposes of this Act.

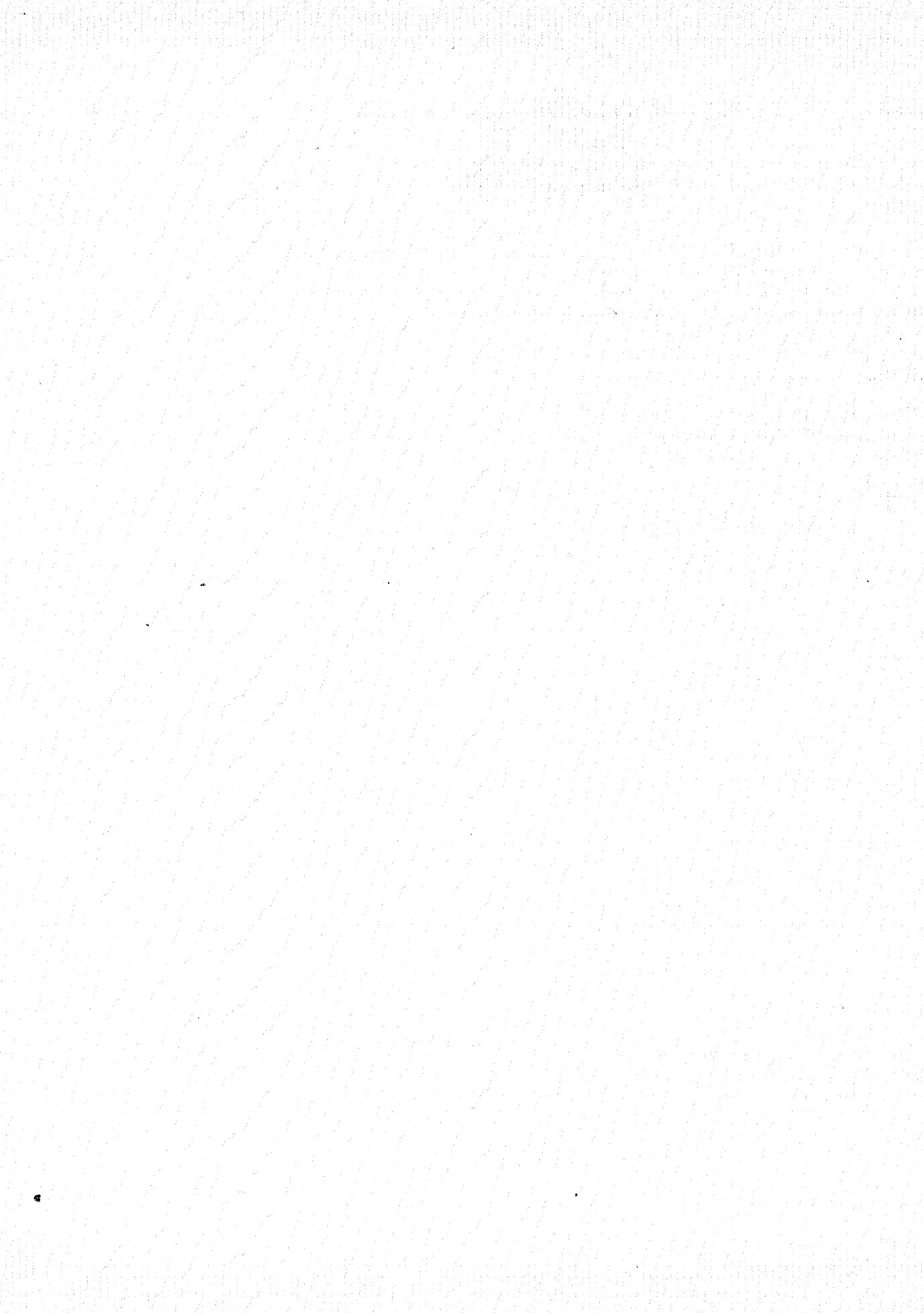
VII. And be it enacted, That the moneys raised at any place under this Act and for the purposes thereof, shall be appropriated to defray the expenses to be incurred under this Act with regard to such place, and to no other purpose; and that all taxes or duties imposed by or under the authority of this Act shall be recoverable by the Crown from the party by whom they were payable in the first instance, or from any Officer or party having received the same, in any way in which moneys due to the Crown can be recovered.

To what purposes the moneys raised shall be applied.

VIII. And be it enacted, That the Court Houses and Gaols erected or repaired under the authority of this Act shall be deemed to be Public Provincial Works vested in Her Majesty, and under the control of the Commissioners of Public Works.

Court Houses and Gaols to be Public Provincial Works, &c.

MONTREAL: Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty,





ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CXIII.

An Act to repeal certain parts of an Act therein mentioned and to make better provision for the support of Common Schools in the Cities of Quebec and Montreal.

[30th May, 1849.]

WHEREAS it is desirable that no delay or difficulty should occur in the payment of moneys for the support of Common Schools; And whereas the risk of any such delay or difficulty occurring in either of the Cities of Quebec or Montreal would be avoided by setting a part portions of the Funds of the said Cities respectively for the support of such Schools: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*; and it is hereby enacted by the authority of the same, That the forty-third section of the Act passed in the ninth year of Her Majesty's Reign, intituled, *An Act to repeal certain enactments therein mentioned, and to make better provision for Elementary Instruction in Lower Canada*, and so much of any other section of the said Act, or of any other Act as may be inconsistent with the provisions of this Act, shall be, and the same are hereby repealed.

Preamble.

Sect. 43 of the Lower Canada School Act repealed.

II. And be it enacted, That for and notwithstanding any thing in the said Act or in a certain other Act passed in the eighth year of Her Majesty's Reign, intituled: *An Act to provide for the payment of claims arising out of the Rebellion and Invasion in Upper Canada, and to appropriate the duties on Tavern Licenses to Local purposes*, there shall be paid to the Secretary-Treasurer of each of the Corporations of Protestant and Roman Catholic School Commissioners respectively, in each of the Cities of Quebec and Montreal respectively, out of the moneys arising and collected in each of the said Cities respectively, from the duties or licenses to keep houses of public entertainment, and in proportion to the population of the religious persuasion represented by each of such Corporations respectively, sums equal to those coming to the said Cities respectively, out of the Common School Fund, to be employed by them for the purposes of the Act first above cited; and such payments may be made either directly by the District Inspector, or by the intervention of the Receiver General or other proper Officer, at such times and in such manner as the Governor General in Council shall from time to time direct.

Notwithstanding the said Act, or 8 V. c. 72, moneys coming to Montreal or Quebec for School purposes to be paid directly to the School Commissioners out of the Tavern License Fund.

How such payment may be made.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CXIV.

An Act to consolidate the Laws relative to the Powers and Duties of the Trinity House of Quebec, and for other purposes.

[30th May, 1849.]

WHEREAS the provisions of the Acts and Ordinances now in force, relative to the powers and duties of the Trinity House of Quebec, to Pilots and Pilotage in and below the Harbour of Quebec, to the fund for decayed Pilots, their widows and children, and to other matters therein mentioned, have become obscure by repeated amendments; And whereas experience hath shewn that they are insufficient for the purposes for which they were framed, and it is therefore expedient to repeal them, and to amend and consolidate the provisions therein contained, and to enact other provisions: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, as follows:

Preamble.

Firstly. That the Act of the Parliament of the Province of Lower Canada, passed in the forty-fifth year of the Reign of King George the Third, intituled, *An Act for the better regulation of Pilots and Shipping in the Port of Quebec, and in the Harbours of Quebec and Montreal, and for improving the Navigation of the River St. Lawrence, and for establishing a Fund for decayed Pilots, their Widows and Children*, is repealed;

Certain Acts
of Lower Ca-
nada repealed:
45 G. 3, c. 12.

Secondly. The Act of the said Parliament, passed in the forty-seventh year of the Reign of King George the Third, intituled, *An Act to amend an Act passed in the forty-fifth year of the Reign of His present Majesty, intituled, 'An Act for the better regulation of Pilots and Shipping in the Port of Quebec, and in the Harbours of Quebec and Montreal, and for improving the Navigation of the River St. Lawrence, and for establishing a Fund for decayed Pilots, their Widows and Children,'* is repealed;

47 G. 3, c. 10.

Thirdly. The Act of the said Parliament, passed in the fifty-first year of the Reign of King George the Third, intituled, *An Act to amend an Act passed in the forty-fifth year of His Majesty's Reign, intituled, 'An Act for the better regulation of Pilots and Shipping in the Port of Quebec, and in the Harbours of Quebec and Montreal, and for improving*

51 G. 3, c. 12.

improving the Navigation of the River St. Lawrence, and for establishing a Fund for decayed Pilots, their Widows and Children, is repealed;

52 G. 3, c. 12; *Fourthly.* The Act of the said Parliament, passed in the fifty-second year of the Reign of King George the Third, intituled, *An Act to amend an Act passed in the forty-fifth year of His Majesty's Reign, intituled, 'An Act for the better regulation of Pilots and Shipping in the Port of Quebec, and in the Harbours of Quebec and Montreal, and for improving the Navigation of the River St. Lawrence, and for establishing a Fund for decayed Pilots, their Widows and Children,'* is repealed;

Sect. 3 of 59 *Fifthly.* The third section of the Act of the said Parliament, passed in the fifty-ninth year of the Reign of King George the Third, intituled, *An Act to prevent accidents in the landing of Gunpowder from Ships or other vessels in the Harbour of Quebec, and to guard against the careless transporting of the same into the Powder Magazine,* is repealed;

G. 2, c. 9. *Sixthly.* The Act of the said Parliament, passed in the second year of the Reign of King George the Fourth, intituled, *An Act further to amend and extend the provisions of certain Acts therein mentioned, relating to Pilots and to the Navigation of the River St. Lawrence, and for other purposes therein specified,* is repealed;

2 G. 4 c. 7. *Seventhly.* The Act of the said Parliament passed in the fourth year of the Reign of His late Majesty King William the Fourth, intituled, *An Act to make provision for indemnifying Pilots while detained in Quarantine,* is repealed;

4 V. c. 5; *Eighthly.* The Ordinance of the Governor and Special Council of the Province of Lower Canada, passed in the fourth year of Her Majesty's Reign, intituled, *An Ordinance to authorize the Corporation of the Trinity House of Quebec to borrow a certain sum of money, and for other purposes relative to the said Corporation,* is repealed;

4 V. c. 6. *Ninthly.* The Ordinance of the Governor and Special Council of the Province of Lower Canada, passed in the fourth year of the Reign of Her Majesty, intituled, *An Ordinance to empower the Corporation of the Trinity House of Quebec to sell and convey a certain portion of the Harbour of the Cul-de-Sac in the City of Quebec, to the Corporation of the said City,* is repealed;

4 & 5 V. c. 15. *Tenthly.* The Act of the Parliament of this Province, passed in the Session held in the fourth and fifth years of Her Majesty's Reign, intituled, *An Act to repeal and amend in part certain Acts and a certain Ordinance therein mentioned, and to extend the powers and increase the funds of the Corporation of the Trinity House of Quebec,* is repealed;

Part of 8 V. c. 60. *Eleventhly.* So much of the Act of the said Parliament, passed in the eighth year of Her Majesty's Reign, intituled, *An Act to amend the Ordinances incorporating the City of Quebec,* as shall be inconsistent with this Act, is repealed;

Acts, &c.
repealed by
the said Acts
&c. not
revived.

Twelfthly. No Act or Ordinance or part of an Act or Ordinance repealed by any Act or Ordinance hereby repealed, shall be revived by virtue of this Act.

II. And be it enacted—*First.* That notwithstanding the repeal of the Acts and Ordinances, or parts of Acts or Ordinances before mentioned, all things done and all rights acquired in virtue of the said Acts or Ordinances shall be valid, all penalties incurred shall be recoverable, and all proceedings or matters commenced may be continued as if the Acts and Ordinances so repealed were still in force ;

Things done and rights acquired under the repealed Act to remain valid.

Secondly. The Corporation of the Trinity House of Quebec shall not be dissolved by the passing of this Act, but shall continue, and the present Master, Deputy Master, and Wardens of the said Corporation, and their successors, in the same offices, appointed in the manner prescribed by this Act, shall, without any new appointment, remain and continue to form and constitute a Body Politic, incorporated for the purposes of the present Act, under the name of *The Trinity House of Quebec*, which shall be one and the same Corporation with that heretofore existing under the name of the Master, Deputy Master and Wardens of the *Trinity House of Quebec* ; they shall continue to have perpetual succession, and a Common Seal, with power to change and renew it at pleasure ; they, and their successors, may plead and be impleaded in any Court of Record or Judicial Tribunal in this Province, in like manner as any other body corporate or party ; and may purchase and hold immoveable property as sites for light houses, and for other the purposes of this Act ; and may purchase and hold any moveable property whatsoever for like purposes, or for the other purposes of this Act ;

Corporation heretofore existing to continue.

Thirdly. The present Officers of the Trinity House of Quebec and the other Functionaries of the said Corporation shall retain their respective offices, as if this Act had not been passed ; except, that after the passing hereof, the offices of Clerk and Treasurer shall be held by separate persons ;

Present Officers continued. Exception.

Fourthly. The Trinity House of Quebec shall consist of a Master, Deputy Master and seven Wardens, who, with the Master and Deputy Master, shall have, in the manner herein prescribed, the right of giving their opinion, and voting upon all the affairs of the Corporation ; but the Office of Deputy Master shall cease from and after the resignation, removal or decease of the present Deputy Master, and the Trinity House of Quebec shall then consist of a Master and eight Wardens ;

Members of the Corporation.

Office of Deputy Master made temporary.

Fifthly. That no Member of the Trinity House of Quebec shall directly or indirectly contract with the said Corporation, nor be in any manner interested in or capable of deriving any interest under any contract made with the said Corporation by any other person, and any Member who shall have any contract with the Corporation at the time of the passing of this Act shall cease to be a Member thereof ;

Members not to be interested in contracts, &c.

Sixthly. There shall be two Superintendents of Pilots, who shall be Branch Pilots, having practised as such for at least ten years, the senior in office shall be one of the Wardens of the Trinity House of Quebec ; in his absence the other Superintendent of Pilots shall act as Warden, with the same power and functions ;

Superintendents of Pilots. One to be a Warden.

Seventhly. The Master of the Trinity House of Quebec shall be *ex officio* the Principal of the Corporation ;

Qualification of the Master.

Eighthly. There shall be, as heretofore, a Harbour Master, and an Assistant Harbour Master of the Harbour of Quebec ; except, that the office of Assistant Harbour Master shall cease on the resignation, removal or decease of the present incumbent ;

Harbour Master and Assistant.

The latter office to be temporary.

Ninthly.

Officers, &c.
how appointed.

Ninthly. The Governor may appoint by an Instrument under the Great Seal of the Province, all the Officers and other Functionaries required by the present Act, and may remove at his pleasure, collectively or separately, the Master, the Deputy Master, the Wardens, the Harbour Master, the Assistant Harbour Master, the Superintendents of Pilots, the Treasurer, the Clerk, the Bailiff, and the other Officers and Functionaries of the Corporation, and appoint others, except to the offices of Deputy Master of the Trinity House of Quebec, and of the Assistant Harbour Master, which offices shall be abolished on the removal of the incumbent.

Officers to
have fixed
salaries, &c.
Application of
moneys.

The salaries.

III. And be it enacted—*First.* That all the Officers of the Trinity House of Quebec shall receive fixed salaries out of the funds of the said Corporation; and except moneys which under this Act go to the Pilot Fund, all fees and moneys received for any cause whatsoever under this Act or any By-law made under it, shall go towards defraying the expenses of the Corporation; *Secondly.* The salary of the Master shall not exceed two hundred and fifty pounds a year; that of the present Harbour Master shall not exceed five hundred pounds a year; nor that of any of his successors four hundred pounds a year; that of the Assistant Harbour Master shall not exceed one hundred and eleven pounds, two shillings and two pence a year; that of each Superintendent of Pilots shall be one hundred and seventy five pounds a year; that of the Treasurer shall be three hundred and fifty pounds a year; that of the present Clerk shall be three hundred pounds currency a year; but that of any of his successors shall not exceed two hundred and fifty pounds a year; the salary of the Bailiff shall not exceed one hundred pounds a year; the salaries which are not hereby fixed shall be fixed by the Governor within the limits hereby prescribed.

As to salaries
not hereby
fixed.

Former By-
laws conti-
nued.

Exception.

IV. And be it enacted, That all By-laws legally made by the Trinity House of Quebec before the passing of this Act shall, in so far as they contain nothing inconsistent with this Act, remain in force until repealed or amended, or until others shall be enacted in lieu thereof by the said Corporation, but so much thereof as may be inconsistent with this Act is hereby repealed.

Meetings of
the Corpora-
tion.

Proviso.

Quorum.

President.

V. And be it enacted, That the Master, Deputy Master, and Wardens of the Trinity House of Quebec, or any three of them, may meet on such days and at such place as they may think proper, and may adjourn indefinitely or to a fixed day, at pleasure; but they shall meet at least twice a week during the season of navigation: their Acts shall be valid, provided three of them meet at their then usual place of sitting; at their meetings, the Master, or in his absence the Deputy Master, or if neither be present, the Senior Warden shall preside.

T. H. Q. may
make By-laws
for certain pur-
poses.

Proviso.

VI. And be it enacted, That at any such meeting the Master, Deputy Master and Wardens of the Trinity House of Quebec, or any three of them, may in the manner provided in the last preceding section of this Act, make such By-laws and Orders as they may deem fitting and useful, provided the same be not contrary to the Maritime Laws of Great Britain, to the Laws of this Province or to this Act; the objects for which such By-laws and Orders shall be made being the following:

Purposes for
which By-laws
may be made.

First. The internal management and Government of the Corporation of the Trinity House of Quebec and of its property moveable and immoveable;

Secondly.

Secondly. The security and the facility of the Navigation of the River St. Lawrence, from the Basin of Portneuf, in the County of Portneuf, to the Eastern limit of this Province, and of the navigable portions of the several rivers which flow into this river, or into the Gulf of St. Lawrence, within the limits prescribed by this Act ;

Thirdly. The placing and removal of buoys and beacons ;

Fourthly. The erection of light houses, floating lights, lanterns and other signals ;

Fifthly. The dredging and clearing away of sands, rocks or other obstructions ;

Sixthly. The improvement and management of the Harbour of Quebec, and of the *Cul-de-Sac* ;

Seventhly. The anchoring, mooring, riding and fastening of vessels, and craft of all kinds in the Harbour of Quebec, and the control of such vessels and craft, whether in the stream, at a wharf or landing place, or hove down or hauled up for repair, in the Harbour of Quebec ;

Eighthly. The regulation and control of the use of lights and fire on board such vessels and craft in the *Cul-de-Sac*, and at the wharves in the said Harbour ;

Ninthly. The manner of boiling or melting pitch, tar, turpentine, resin, or any other inflammable substance, on the beaches in the said Harbour of Quebec, or in the *Cul-de-Sac* ;

Tenthly. The appointment of the place or places in the said Harbour for the landing of gunpowder from Merchant vessels, and the route by which it may be carried to the Magazine ;

Eleventhly. The construction of wharves and of buildings thereon for the use of the Trinity House of Quebec ;

Twelfthly. The imposing, levying and receiving of wharfage or other dues to be paid by vessels and craft of all kinds entering the *Cul-de-Sac*, or undergoing repairs or wintering therein ;

Thirteenthly. The regulation and government of Pilots licensed as such for the Port of Quebec ;

Fourteenthly. The conduct of Pilots towards their Apprentices, and of Pilots' Apprentices towards their Masters ;

Fifteenthly. The qualification, instruction, service, supervision, control and examination of the Pilots' Apprentices.

VII. And be it enacted, That no By-law made by the Trinity House of Quebec, shall take effect, unless it be published twice a week during two weeks in English, in a Quebec newspaper published in English, and twice a week during two weeks in French, in

Formalities before any By-law shall take effect.

in a Quebec newspaper published in French, nor unless it be submitted to the Governor for His Sanction at least fifteen days after such publication.

Publication of By-laws after sanction.

VIII. And be it enacted, That every By-law sanctioned by the Governor, and certified by the Clerk of the Executive Council, shall, before it shall take effect, be inserted twice a week during two weeks, in English, in a Quebec newspaper published in English, and in French, in a Quebec newspaper published in French ; and such By-laws shall be then printed in pamphlet form, and any person shall be entitled to a copy on paying its fair value, and a copy of any By-law of the Trinity House of Quebec, certified by the Clerk under the Seal of the Corporation, shall be deemed authentic, and shall avail accordingly in all Courts of Justice in this Province.

Copies to be granted and their effect.

By-laws may impose penalties.

IX. And be it enacted, That the Trinity House of Quebec may, by any By-law made under this Act, impose penalties not exceeding ten pounds, on any person contravening such By-law, or any Order which the Corporation may lawfully make under this Act, or under any such By-law.

Cul-de-Sac to remain in possession of the T. H. C.

X. And be it enacted, That the Trinity House of Quebec shall continue to possess the property of Her Majesty situate in the Lower Town of Quebec, and known by the name of the *Cul-de-Sac* Harbour, whether covered or not covered by the flow or ebb of the tide, with its dependencies, and may exercise the rights thereunto belonging ; but shall not dispossess or molest the persons possessing the wharves on the north side of the *Cul-de-Sac*, nor deprive them of the advantages, revenues and profits to which they are now entitled.

Port of Quebec defined.

XI. And be it enacted, That for the purposes of this Act, the Port of Quebec shall comprise all that part of the River St. Lawrence between the Basin of Portneuf, inclusively, and the Gulf of St. Lawrence, that part of the Gulf of St. Lawrence which is comprised within the limits of this Province, or which borders upon its coasts, and that part of all rivers, waters, creeks, bays and coves within the said limits, where the tide ebbs and flows.

Harbour of Quebec defined.

XII. And be it enacted, That the Harbour of Quebec shall comprise that part of the River Saint Lawrence, between Saint Patrick's Hole, inclusively, to the *Cap-Rouge* River, inclusively, and that part of the Rivers Montmorency, Saint Charles, Etchemin, Chaudière, Cap-Rouge and others, where the tide ebbs and flows.

Limits of the River.

XIII. And be it enacted, That for the purposes of this Act, the River Saint Lawrence shall be held to enter the Gulf of Saint Lawrence at an imaginary line drawn from the eastern anchorage ground off *Isle Barnabé* to the eastern anchorage ground under Cape Columbia, on the north shore ; and vessels of every kind bound inwards shall be considered to be in the River Saint Lawrence when they shall be above this imaginary line.

Members and Officers of T. H. C. to take an oath of office.

XIV. And be it enacted, That every Member of the Trinity House of Quebec, and every Officer thereof, shall, before entering upon the duties assigned to him by this Act, make oath before a Judge of the Court of Queen's Bench or one of the Prothonotaries thereof, that he will faithfully perform the duties of his office.

XV. And be it enacted, That the Trinity House of Quebec may and shall grant a Branch as Pilot to every Apprentice who shall have previously complied with all requirements of the law, and undergone a satisfactory examination, conformably to the provisions of this Act.

Conditions on which a branch may be obtained.

XVI. And be it enacted, That every Pilot having a Branch before the passing of this Act, shall keep the same until he shall forfeit it for any of the causes herein mentioned.

Pilots branched before this Act.

XVII. And be it enacted, That every Branch Pilot who shall be two full and consecutive years without acting as Pilot, (unless in case of sickness, unavoidable absence, or special permission from the Trinity House of Quebec), shall be liable to a penalty of fifty pounds, which shall go to the Pilot's Fund; and in case of repetition of the offence, he shall forfeit his Branch.

Penalty on Pilots not practising during two years.

XVIII. And be it enacted, That every Branch Pilot who shall be two years without acting as Pilot, but shall give notice to the Clerk of the Trinity House of Quebec, in the course of such two years, that he wishes to cease to act as Pilot, shall lose his Branch, but shall not incur the penalty of fifty pounds.

A Pilot may resign his branch.

XIX. And be it enacted, That each Pilot's Branch shall be registered by the Trinity House of Quebec, in a book which shall be open during the navigation season to every person wishing to inspect it.

Branches to be registered.

XX. And be it enacted, That the Trinity House of Quebec may, by By-law, fix the fees to be received in suits brought before it, or for delivering and registering Pilot's Branches, or for any other cause whatsoever.

T. H. Q. may fix fees for branches, &c.

XXI. And be it enacted, That no person shall obtain a Branch as Pilot, unless he proves that he has *bonâ fide* served a regular Apprenticeship during seven consecutive years under a Branch Pilot authorized by License to have an Apprentice as hereinafter mentioned, and made four voyages to Europe; nor unless he has been examined and found sufficiently conversant with arithmetic, able to speak, read and write the English language, and to calculate a ship's way on the chart, and to work a ship, and is perfectly well acquainted both with the North Channel of the River Saint Lawrence between Quebec and *Isle du Bic*, and with the South Channel of the said River between the same limits, and has conducted himself soberly, and been of good moral conduct during his Apprenticeship.

Qualifications for obtaining a branch.

XXII. And be it enacted, That the Trinity House of Quebec, in order to provide the Pilots' Apprentices with the means of becoming acquainted with the North Channel, shall send their vessel at least twice a year to explore the same, and shall admit on board, under the inspection of one of the Superintendents of Pilots, all Pilots' Apprentices.

Apprentices to have the means of learning the north Channel.

XXIII. And be it enacted, That the Trinity House of Quebec may fine, or according to the gravity of the offence, suspend or deprive of his Branch, any Pilot who shall be the cause of the loss of a vessel under his charge, or shall be the means of its sustaining damage, or being delayed for a considerable time; and shall do so after complaint of the master or owner of such vessel made to the Harbour Master, in whose name the

T. H. Q. may punish a Pilot losing or damaging a vessel under his charge.

prosecution

prosecution shall be brought; the fine shall not in any case exceed ten pounds, and the Pilot shall not be suspended for more than two years: The Trinity House of Quebec may in its discretion abridge the period for which a Pilot may have been suspended, and shall not deprive the Pilot of his Branch unless he shall have caused the accident through drunkenness or gross misconduct.

In what case the Pilot shall lose his Pilotage or part thereof.

XXIV. And be it enacted, That a Pilot deprived of his Branch or suspended or condemned to pay a penalty, for having caused damage to a vessel by his drunkenness or gross misconduct, shall not be entitled to any pilotage, where the amount of such damage shall be equal to or exceed that of such pilotage.

Pilot dis-branched for drunkenness may be reinstated.

XXV. And be it enacted, That a Pilot deprived of his Branch for drunkenness, may recover it by proving by good and valid certificates that he has conducted himself with sobriety and steadiness during two consecutive years, after the date of his interdiction.

Branch to be restored in certain cases.

XXVI. And be it enacted, That the Trinity House of Quebec may at any time and shall at the expiration of three years from the time when any Pilot shall have been condemned to lose his Branch, for gross misconduct, restore the same to him on his proving by undergoing an examination conformable to the By-Laws in force when he was first apprenticed, that he is qualified to act as a Pilot.

Pilots suspended, not to be deemed Branch Pilots.

XXVII. And be it enacted, That a Pilot suspended from the exercise of his functions or deprived of his Branch, shall not be deemed to be a Branch Pilot so long as this suspension shall last, or his Branch shall not be restored to him.

Penalty for refusing to take charge of a Vessel.

XXVIII. And be it enacted, That the Trinity House of Quebec may fine in a sum not exceeding Ten Pounds, and not less than Five Pounds any Branch Pilot who not being really employed as a Pilot, shall refuse, avoid or voluntarily neglect to board or take charge of any vessel within the limits specified in his Branch, when he shall be required either by a signal from such vessel or by the Captain, Master or any Officer belonging to the vessel, by the Trinity House of Quebec, the Harbour Master or the Superintendents of Pilots, unless it would be dangerous to the Pilot to obey such signal, or to comply with the demand or order of the said persons or authorities, or unless he be prevented from so doing by sickness or other sufficient cause.

Exception.

Penalty on a Pilot abandoning his Vessel.

XXIX. And be it enacted, That any Branch Pilot who shall, without reasonable excuse, abandon a vessel or refuse to Pilot her after he has been engaged for that purpose, or after having boarded her, without having performed the services for which he shall have been so engaged, and without the permission of the Master of such vessel, shall be liable to a penalty not exceeding ten pounds, or may according to the gravity of the offence be suspended or deprived of his Branch.

Master promising a Vessel and not giving it.

XXX. And be it enacted, That any Master of a vessel promising to give or having given the charge of his vessel to a Branch Pilot, and afterwards refusing it or taking it from him, shall be obliged to pay to such Pilot the full pilotage on the vessel.

Pilot to obey the Harbour Master.

XXXI. And be it enacted, That any Branch Pilot having charge of a vessel, who shall refuse to obey the orders or directions of the Harbour Master relative to the making fast, casting off, shifting or removal of such vessel, shall incur a penalty not exceeding ten pounds.

XXXII.

XXXII. And be it enacted, That no Pilot shall have an Apprentice unless he has previously obtained a license to that effect from the Trinity House of Quebec, after being examined as to his ability to instruct such Apprentice in the duties of a Pilot, and no Pilot shall have more than one apprentice at one time.

What Pilots may have Apprentices. Not to have more than one.

XXXIII. And be it enacted, That any person wishing to become a Pilot's Apprentice must know how to read and write, and must previously obtain permission from the Trinity House of Quebec: The agreement between the Apprentice and the Master shall be by a Notarial Indenture, whereof the latter shall, under a penalty not exceeding ten pounds, deposit an authentic copy in the hands of the Clerk of the Trinity House of Quebec within three months after the date of the Indenture.

Apprentices must obtain permission and enter into notarial agreement.

XXXIV. And be it enacted, That Apprentices under Indenture at the passing of this Act, shall, as regards their qualification and examination, be subject only to the By-laws and Regulations in force at the date of their Indentures.

Apprentices now under indenture.

XXXV. And be it enacted, That any person other than a Branch Pilot who shall take charge of a vessel to pilot it in any part of the Harbour or Port of Quebec, shall, unless the Master of such vessel has previously endeavoured, by making the signal required by this Act, to procure a Branch Pilot, incur a penalty of ten pounds.

Penalty for employing other than Branch Pilots.

XXXVI. And be it enacted, That the Master or person in charge of any boat or other small craft, who shall, at the instance of the Master of any vessel, run before the same to direct its course, shall be entitled to full pilotage for the distance thus gone over, except that if there be in such boat or craft a Branch Pilot who shall not from any cause have been able to board the vessel, it shall be such Pilot who shall be entitled to receive the Pilotage.

Boat, &c. running before a vessel to direct its course.

XXXVII. And be it enacted, That the rates of pilotage to which Branch Pilots shall be entitled, shall be those in Tables One and Two of the Schedule A, annexed to this Act; any Pilot who shall knowingly receive more or less than the legal value of his services, and the Master of any vessel who shall offer less than the rates enumerated in the said Schedule shall respectively incur a penalty not exceeding ten pounds.

Rates of Pilotage to be those in the Schedule.

XXXVIII. And be it enacted, That the Pilot arriving with any vessel in the Harbour of Quebec, shall remain in charge thereof, if the Master require it, during the forty-eight hours next after his arrival; but he shall in any case be free from the moment the vessel shall be fast to a wharf, or shall have commenced discharging her ballast or unloading; when the Pilot shall, at the instance of the Master, remain more than forty-eight hours on board the vessel, he shall have one pound for each day subsequent, and his board as customary.

Pilot to remain with the vessel 48 hours after her arrival. Exception.

XXXIX. And be it enacted, That every vessel arriving in the Harbour of Quebec, and not having performed Quarantine at Grosse-Isle, may proceed without stoppage to the ballast ground, or to any other place in the said Harbour.

Certain vessels may proceed at once to the ballast ground, &c.

XL. And be it enacted, That every difference brought before the Trinity House of Quebec between a Pilot and the Master of a vessel, respecting the draft of water of such vessel, shall be decided on the report of the Harbour Master.

Draft of water, how ascertained.

Draft and tonnage to be given to the Harbour Master.

XLI. And be it enacted, That the Master of any vessel coming into the Harbour of Quebec, shall, on the demand of the Harbour Master, give him the draft of water and tonnage of such vessel, under a penalty of ten pounds, and any Master who shall not give the Harbour Master the true draught of water and exact tonnage of his vessel, shall incur a penalty not exceeding twenty-five pounds.

Compensation to Pilot for services, &c. to a vessel in distress.

XLII. And be it enacted, That any Pilot saving or endeavouring to save a vessel in distress shall be entitled to a remuneration to be fixed by the Trinity House of Quebec if such Pilot shall not have agreed with the Master or owner of the vessel as to the compensation for such service, provided he be not the Pilot on Board and in charge of such vessel.

Pilot bringing back a vessel after an accident.

XLIII. And be it enacted, That any Branch Pilot who shall bring back to the Harbour of Quebec a vessel having sustained damage or lost any anchor or cable, shall be entitled to the pilotage downwards for the whole distance he may have gone, in accordance with the Rates in the Schedule A, annexed to this Act, and further, to half pilotage for bringing the said vessel up.

Pilots detained in Quarantine.

XLIV. And be it enacted, That any Branch Pilot in charge of a vessel, who shall be detained in Quarantine at Grosse-Isle, or at any other Quarantine Station legally established in the Port of Quebec, shall, in addition to the pilotage, be entitled to fifteen shillings for each day of detention, recoverable in the same manner as pilotage.

Pilot carried out to sea.

XLV. And be it enacted, That any Branch Pilot carried out to sea, or beyond the limits of the Port of Quebec, without his consent, shall be entitled, at the expense of the Master or Owner of such vessel, to a cabin passage back to the Port of Quebec, and, in addition to his pilotage, to the sum of six pounds sterling per month, reckoning from the day when he shall have passed the limits of the Port of Quebec to the day of his repassing them; but he shall not be entitled to more than such a passage as above mentioned, and to forty days' allowance, at the rate of six pounds sterling per month, reckoning from the day of his landing in a frequented port to that of his repassing the limits of the Port of Quebec.

Distinguishing flag and number to be borne by Pilot Boats, &c.

XLVI. And be it enacted, That every boat or other small craft, having on board one or more Branch Pilots in search of vessels, shall carry at the mast head, a flag half red and half white, the colours being horizontally placed, with the white uppermost, and proportionate to the size of the boat or craft, under a penalty of ten pounds currency, recoverable from the Master or Owner of such boat or craft; every boat or other small craft used by a Branch Pilot, shall, under penalty of ten pounds, recoverable from the Master or Owner of such boat or craft, carry on each of its sails and on its bow and quarter, the number of its owner or of one of its owners; such numbers shall be in figures of eighteen inches in length; for the purposes of this Act, the Pilot whose number shall so appear on the sails and on the sides of such boat or craft, shall be deemed the owner thereof.

Penalty for concealing number.

XLVII. And be it enacted, That any Branch Pilot, who shall conceal or wilfully allow to be concealed the number on the sails or on the sides of his boat or craft, shall incur a penalty of ten pounds.

XLVIII.

- XLVIII.** And be it enacted, That the Master or Owner of every boat or small craft, not having on board a Branch Pilot, which shall carry the distinctive Pilot-flag herein described, shall for each offence incur a penalty not exceeding ten pounds. Penalty on other Boats for carrying the Pilot flag.
- XLIX.** And be it enacted, That a description of the person of each Pilot shall be endorsed upon his Branch. Description of the Pilot on his Branch.
- L.** And be it enacted, That every Branch Pilot taking charge of a vessel, shall, under a penalty not exceeding ten pounds, carry with him his Branch, and shall exhibit it to the Master of such vessel, who is required to demand its production, under a penalty not exceeding ten pounds. Pilot must carry his Branch with him, &c.
- LI.** And be it enacted, That any Pilot suspended or dismissed shall, under a penalty not exceeding ten pounds, deliver up his Branch to the Clerk of the Trinity House of Quebec, within three months from such suspension or dismissal, and shall leave it there so long as such suspension or dismissal shall continue. Pilot suspended to give up his Branch.
- LII.** And be it enacted; That on the death of a Pilot, his testamentary executor, or other person into whose hands his Branch may come, shall deliver it up to the Clerk of the Trinity House of Quebec, under a penalty not exceeding ten pounds. Representatives to give up his Branch.
- LIII.** And be it enacted, That the Master of each vessel leaving the Port of Quebec for a port out of this Province, shall take on board a Branch Pilot to conduct such vessel, under a penalty equal in amount to the pilotage of the vessel; which penalty shall go to the Decayed Pilots' Fund. What vessels must take Pilots outwards.
- LIV.** And be it enacted, That the Master of every vessel coming from a port out of this Province, and not having a Branch Pilot on board, shall, on entering the Port of Quebec, under a penalty of ten pounds, hoist the Union Jack at the fore-top-mast head, and leave it so hoisted every day from day-light to dark, until boarded by a Branch Pilot. Vessels coming into the River to hoist signal for a Pilot.
- LV.** And be it enacted, That the Master of any vessel arriving within the Port of Quebec, and not having a Branch Pilot on board, who shall perceive at a reasonable distance, the boat or other small craft of a Branch Pilot, carrying at the mast head the distinctive Pilot flag, shall, by lying to, if the weather permit, or by shortening sail or other practicable means, facilitate the coming on board of such Pilot, and shall give him charge of his vessel, under a penalty not exceeding ten pounds, over and above the full pilotage, which shall be payable to such Pilot as shall have shewn by sign or otherwise, his intention to board the vessel and take charge thereof. Vessels coming in sight of a Pilot boat, &c., to lie-to &c.
- LVI.** And be it enacted, That the fund for the support and maintenance of decayed Pilots, their widows and children, shall continue as before the passing of this Act; and the said fund and all moneys forming part thereof, either before or after the passing hereof, shall continue to be vested in the Trinity House of Quebec, which shall administer the same conformably to this Act. Pilot Fund to continue, &c.
- LVII.** And be it enacted, That every Branch Pilot shall contribute to the Pilots' Fund one shilling in the pound on all moneys to which he shall be entitled under this Act for pilotage or other services. Contribution to the said Fund.

LVIII.

Master to retain and pay over the contribution.

LVIII. And be it enacted, That the Master of every vessel, not belonging to Her Majesty, shall retain in his hands one shilling out of every pound due for the pilotage of such vessel whether upwards or downwards, and of every other sum payable by him to any Pilot for services of like nature, and shall pay over the sum so retained by him to the Treasurer of the Trinity House of Quebec, or to any other person the Governor may appoint to receive the same.

As to Pilotage of Her Majesty's ships.

Oath of Pilot.

LIX. And be it enacted, That any Pilot who shall pilot a Queen's ship in any part of the Port of Quebec shall, under a penalty not exceeding ten pounds, pay over within three months thereafter to the Treasurer of the Trinity House of Quebec, one shilling in the pound on the amount of the pilotage of such vessel; and the Treasurer of the Trinity House of Quebec may administer to such Pilot an oath as to the amount received by him for such pilotage.

Superintendent to contribute to, and share in the Fund.

LX. And be it enacted, That the Superintendents of Pilots shall pay annually to the Treasurer of the Trinity House of Quebec, for the Pilots' Fund, one shilling in the pound on the amount of their salary; and in the event of their resignation or removal as Superintendents of Pilots, they shall be Branch Pilots for all the purposes of this Act, and shall participate in the Pilot Fund in the same manner as if they had never ceased to act as Pilots; at their death, their widows and children shall have the same claim on the Pilot Fund as the widows and children of other Pilots.

T. H. Q. to grant aids and pension out of the said Fund.

LXI. And be it enacted, That the Trinity House of Quebec shall, out of the Pilot Fund, grant to every distressed or decayed Pilot, his widow and children, such assistance or pension as it may deem proper to grant them, conformably to this Act.

Pilots over 60 years of age may be pensioned.

LXII. And be it enacted, That every Pilot who shall have attained the age of sixty years may, on delivering up his Branch to the Clerk of the Trinity House of Quebec, receive a pension out of the Pilot Fund.

How moneys of the Fund not employed shall be invested.

LXIII. And be it enacted, That every sum of money belonging to the Pilot Fund which shall not have been employed in the relief and support of decayed Pilots, or of the widows and children of Pilots, shall be placed at interest in the Provincial or other Public Funds, or loaned on hypothec or real property: When any sum shall be loaned on hypothec out of the Pilot Fund, the Trinity House of Quebec shall require from the borrower two good and valid sureties, and shall satisfy itself that the property hypothecated as well as that of the sureties is not so encumbered as to endanger the sum so loaned.

T. H. Q. to decide differences between Pilots and their Apprentices.

LXIV. And be it enacted, That the Trinity House of Quebec, shall hear and finally determine every complaint and difference between Pilots and their Apprentices, and shall for this purpose have all the powers vested in Her Majesty's Justices of the Peace and the Courts of Quarter Sessions in the several Districts of this Province, with regard to Masters and their Apprentices generally, and may from time to time summon before it and examine any Pilot's Apprentice as to his progress in the business of a Pilot, and may impose a penalty not exceeding ten pounds on any Pilot who may have neglected the instruction of his Apprentice.

LXV. And be it enacted, That when at the expiration of his apprenticeship a Pilot's Apprentice shall be found incompetent to practise as a Pilot, the Trinity House of Quebec may oblige him to serve for a time not exceeding twelve months over and above the period of apprenticeship hereby required, and may at each examination which such Pilot's Apprentice may undergo, oblige him to serve for a further period not exceeding twelve months, if it shall upon such examination deem him incompetent to practise as a Pilot.

Apprentices found incompetent, to serve for a further period.

LXVI. And be it enacted, That the Trinity House of Quebec may hear and determine :

Other judicial powers of T. H. Q.

First. Any matter in dispute between a Branch Pilot and the Master or Owner of a vessel, relative to any sum of money claimed for pilotage or other service of like nature;

Secondly. Any complaint against a Branch Pilot for negligence or misconduct in the performance of his duty, or for any contravention of this Act, or of any By-law or Order of the Trinity House of Quebec, legally made and valid under this Act ;

Thirdly. Any complaint for contravention of this Act, or of any By-law, or Order of the Trinity House of Quebec, touching which there is no express provision, in any law regulating the powers and jurisdiction of the other judicial tribunals of this Province.

LXVII. And be it enacted, That every suit brought before the Trinity House of Quebec, shall be by Summons upon complaint and information ; and upon proof of service of the Summons on the party complained against, by the Bailiff of the Trinity House of Quebec, or Marshal of the Admiralty, or any other Officer specially appointed to make such service, the Trinity House of Quebec, shall hear and determine such suit, whether the Defendant be present or absent ; the Summons shall issue under the Seal of the Trinity House of Quebec, and shall be signed by the Clerk of the said Corporation ; a copy thereof may be served by any person legally authorized to make such service on shore, or on board of any vessel, not being one of Her Majesty's ships, to which the Defendant may belong, either personally on the Defendant, at his residence, or, as the case may be, on one of the company of any vessel under his charge ; there shall be at least forty-eight hours between the service of the Summons and the hearing the complaint.

Mode of bringing suits before the T. H. Q.

LXVIII. And be it enacted, That the limits of the jurisdiction of the Trinity House of Quebec, so far as regards the service, or execution of any Summons or Writ, in the manner prescribed by this Act, shall be those of the District of Quebec.

Limits of jurisdiction on shore.

LXIX. And be it enacted, That when the Trinity House of Quebec shall have rendered judgment against any party, it may execute the same by means of a Writ issued in its Name and under its Seal, signed by the Principal, and countersigned by the Clerk of the said Corporation, authorizing and requiring the Bailiff of the Trinity House of Quebec, or the Marshal of the Admiralty Court, or any other Officer named for that purpose, to levy by seizure and sale of the moveables of the party against whom the judgment is rendered, the amount of such judgment with the costs of suit and of the seizure, and if it appear by the return of the Bailiff or other Officer having the execution of the

How judgments of T. H. Q. shall be executed.

Writ,

Writ, that such moveables are insufficient to satisfy the amount of the judgment and costs, the Trinity House of Quebec, may immediately issue a Writ of Arrest (observing the same formalities as in the former Writ) authorizing the Bailiff, Marshal, or other Officer named as aforesaid, to apprehend the person against whom such judgment was rendered, and to convey him to the Common Gaol of the District of Quebec, there to remain for a period not exceeding one month, unless the amount of the judgment and costs be sooner paid.

Such judgments may be executed in the district of Montreal, &c.

LXX. And be it enacted, That when the party against whom a judgment has been rendered by the Trinity House of Quebec, shall not have sufficient moveables within the jurisdiction of the Corporation, but shall have moveables within the jurisdiction of the Trinity House of Montreal, the Trinity House of Quebec may issue a Writ, (observing the formalities aforesaid,) and address it to the Bailiff of the Trinity House of Montreal, who, on receiving the same, shall cause it to be endorsed by the Master of the Corporation last named, and shall then execute and return it to the Trinity House of Quebec; and if the moveables be not sufficient to pay the amount of the judgment and costs, the Trinity House of Quebec shall issue a Writ of Arrest, addressed to the Bailiff of the Trinity House of Montreal, who after having had it endorsed by the Master of that Corporation, shall apprehend the person against whom it is issued, and convey him to the Common Gaol of the District of Montreal or of Three-Rivers, as the case may be, there to remain for a period not exceeding one month, unless the amount of the judgment and costs be sooner paid.

Warrants of Arrest how executed.

LXXI. And be it enacted, That the Bailiff of the Trinity House of Quebec, or the Bailiff of the Trinity House of Montreal, or other Officer performing their duties, to whom a Writ of Execution or of Arrest shall be addressed, may execute it on board of any vessel, not being one of Her Majesty's Ships, within the limits of the Port of Quebec, or of the Port of Montreal, as the case may be.

Notice of sale under any Writ of T. H. Q.

LXXII. And be it enacted, That whenever under a Writ issued by the Trinity House of Quebec, the Bailiff of that Corporation, or the Bailiff of the Trinity House of Montreal, shall have seized in the Harbour of Quebec or of Montreal, as the case may be, the moveables of the party against whom the Trinity House of Quebec shall have rendered judgment as aforesaid, the sale of such moveables shall be previously advertised at Quebec or at Montreal, as the case may be, once in English, in a newspaper published in English, and once in French, in a newspaper published in French, and when the seizure shall be made in some other part of the Port of Quebec or of Montreal, than in the Harbour of Quebec or of Montreal, as the case may be, the sale shall only take place after public notice thereof, given on a Sunday or Holy-day, at least twenty-four hours previously at the door of the nearest church.

Appeal given to Pilot in certain cases.

LXXIII. And be it enacted, That any Pilot condemned in any case to pay a penalty exceeding five pounds, or suspended or deprived of his Branch, may appeal to the Court of Queen's Bench in Superior Term; and any Pilot intending to appeal from a decision of the Trinity House of Quebec, shall give notice thereof in writing to the Clerk of the Corporation within fifteen days after such decision; and after having previously given sufficient security for the costs in appeal, shall proceed with the appeal at the Superior Term next following the said fifteen days; no judgment rendered against a Pilot by the Trinity House of Quebec from which he may appeal under this Act shall be

be executory until after the fifteen days next following the date of such judgment; and further, in case of appeal, the judgment of the Trinity House of Quebec if affirmed, shall have effect and execution only after such affirmation, and if the Pilot be suspended, the term of suspension shall date from the day the judgment is affirmed.

LXXIV. And be it enacted, That every person not being a Pilot (whose case is elsewhere provided for by this Act), against whom the Trinity House of Quebec may have rendered judgment for a sum exceeding ten pounds, shall be entitled, provided he gives notice of his intention to the Clerk of the Corporation within four days after the date of such judgment, to appeal to the Court of Queen's Bench in Superior Term, on giving good and valid security to the party in whose favor the judgment was rendered, for the amount thereof and of the costs of appeal and others; and shall proceed in the appeal at the then next Superior Term of the said Court.

Appeal given
to persons not
being Pilots.

LXXV. And be it enacted, That the service of any Summons upon a Pilot, shall, if the Bailiff or person doing his duty cannot find the Defendant, be sufficient if he serve a copy thereof on any other person either at the residence of the Defendant or on board of his boat or other craft belonging to him, or on board of any vessel then under his charge.

Service of
Summons on a
Pilot, how
made.

LXXVI. And be it enacted, That the Master of any vessel, believing that he has ground of complaint against his Pilot for bad conduct during the upward or downward passage of such vessel, shall, on pain of losing all right of complaint, inform the Harbour Master thereof within four days after his arrival in the Harbour of Quebec; and the right of complaint against a Pilot for any accident in the Harbour of Quebec or for any other cause, shall be lost to any Master of a vessel, who shall not submit his complaint to the Harbour Master within forty-eight hours after such accident or other ground of complaint.

Complaints
against Pilots
to be made
within a cer-
tain time.

LXXVII. And be it enacted, That the Trinity House of Quebec may summon before it the Master of any vessel, in which a Pilot's Apprentice has made one or more voyages across the Atlantic, and interrogate him under oath respecting such voyages; it may in like manner summon before it any Pilot under whom an Apprentice has served, and question him under oath respecting such apprenticeship; and every Master of a vessel, or Pilot who shall refuse to obey such summons or to answer the questions put to him respecting such Apprentice, shall for such refusal incur a penalty not exceeding twenty pounds, which he shall pay within forty-eight hours after judgment, on pain of imprisonment in the Common Gaol of the District of Quebec, for a period not exceeding fifteen days.

T. H. Q. may
examine Mas-
ters of vessels,
Pilots, &c., as
to the progress
of an appren-
tice.

LXXVIII. And be it enacted, That the Trinity House of Quebec may examine under oath any Pilot's Apprentice, respecting his Apprenticeship.

Or the appren-
tice himself.

LXXIX. And be it enacted, That the Trinity House of Quebec may summon before it, as a witness, any person whose evidence may be required in any suit whatsoever, and may issue a Warrant of Arrest against any person refusing or neglecting without just cause, to appear at the time appointed in such Summons; it may also impose a fine, not exceeding ten pounds, on any witness so refusing or neglecting to appear.

T. H. Q. may
summon
witnesses, &c.

May commit witnesses in certain cases.

LXXX. And be it enacted, That the Trinity House of Quebec may issue a Warrant of Arrest against any person appearing before it as witness, who, without reasonable cause, shall refuse to answer, and may commit him to the Common Gaol of the District of Quebec for a period not exceeding fifteen days.

T. H. Q. may swear witnesses.

LXXXI. And be it enacted, That the Trinity House of Quebec, when sitting as a judicial tribunal, shall administer an oath to every person giving evidence before it.

May allow compensation to witnesses.

LXXXII. And be it enacted, That the Trinity House of Quebec may allow a fair compensation for travelling expenses and loss of time, to every person appearing before it as witness, and the sum so allowed shall form part of the costs in the suit.

May award costs, &c.

LXXXIII. And be it enacted, That the Trinity House of Quebec may in its discretion award costs of suit against the plaintiff or defendant, or set them off against the sum awarded, as it may think equitable.

Power to preserve order.

LXXXIV. And be it enacted, That the Trinity House of Quebec, when sitting as a judicial tribunal, shall have like powers for the preservation of order during its sittings with any other Court of Justice in this Province.

Parties may appear by counsel.

LXXXV. And be it enacted, That every plaintiff or defendant may appear and be heard before the Trinity House of Quebec by Counsel.

Tonnage Duty on sea-going vessels.

LXXXVI. And be it enacted, That the Master or Commander of any Vessel (including Transports employed in Her Majesty's Service) who shall leave the Port of Quebec, and who shall not have proceeded to the Port of Montreal, for a Port situate beyond the eastern limits of the Province, shall, over and above all other sums payable under this Act, pay to the Treasurer of the Trinity House of Quebec or to any other person who may be appointed for that purpose by the Governor, the sum of five pence for every ton measurement of such Vessel; and the Master or Commander of any Vessel (including Transports employed in Her Majesty's Service) who shall leave the Port of Montreal or the Port of Quebec after having proceeded to the Port of Montreal, for a port situate beyond the eastern limits of the Province, shall pay to the Treasurer of the Trinity House of Quebec or to any other person who may be appointed for that purpose by the Governor, the sum of two pence for every ton measurement of such Vessel.

Clearance outwards not to be granted until dues are paid.

LXXXVII. And be it enacted, That the Collector or other Officer of Her Majesty's Customs at the Port of Quebec, or the Collector or other Officer of Her Majesty's Customs at the Port of Montreal, as the case may be, shall not grant a Clearance outwards from either port to any vessel for any port out of the Province, unless the Master of such vessel shews him a Certificate from the Treasurer of the Trinity House of Quebec, or from any other person duly appointed to that effect by the Governor, proving that he has paid the Tonnage Dues imposed by the eighty-sixth Section of this Act, and the Per Centage on the Pilotage required by the fifty-eighth and fifty-ninth Sections.

Per Centago to be paid over monthly.

LXXXVIII. And be it enacted, That the person appointed under this Act by the Governor, to collect the Per Centage or Pilots' Contribution and the Tonnage Duty, shall on the first of each month pay over the amount by him received, to the Treasurer of the

the Trinity House of Quebec, delivering to him, at the same time, a detailed account of the moneys so collected.

LXXXIX. And be it enacted, That the Master of any vessel not requiring a clearance (as a Transport, or other vessel in Her Majesty's Service) who shall leave the Port of Quebec for a port out of the Province, without having paid to the Treasurer of the Trinity House of Quebec or to the person appointed by the Governor to receive the same, the Tonnage Dues and Per Centage or Contribution of the Pilot to the Pilot Fund, shall incur a penalty not exceeding twenty-five pounds.

As to vessels not requiring clearance.

XC. And be it enacted, That the Master or Owner of any Vessel employed in coasting within the limits of this Province, and passing any light-house, light, buoy or other beacons under the control of the Trinity House of Quebec, shall, under a penalty not exceeding ten pounds, take annually from the Treasurer of the Trinity House of Quebec a license gratis in the form of the Schedule B, and shall pay to the said Treasurer the sum of four pence for each ton measurement of such vessel; no such license shall be valid for more than one season of navigation; and the Collector or other Officer of Her Majesty's Customs at the Port of Quebec shall not grant a clearance to any such vessel from the said port, unless the Master of the vessel shall produce such license to him.

Every coasting vessel to take a license.

Duty.

No clearance without license.

XCI. And be it enacted, That whenever the Trinity House of Quebec shall desire to acquire any land for the erection of light-houses or for other purposes connected with the improvement of the River St. Lawrence; or whenever it shall be in possession of lands not belonging to it, but required for its use, and whenever in either case, an amicable arrangement with the proprietor shall not take place, the price to be paid for such land shall be determined as follows: The Trinity House of Quebec and the proprietor shall each appoint a disinterested arbitrator, and the two arbitrators shall name a third, also disinterested; the three arbitrators, after being sworn before one of the Judges of the Court of Queen's Bench of the District of Quebec, to fulfil their duty honestly and impartially, and having reciprocally given notice of the time and place of their meeting, shall determine the price to be paid by the Trinity House of Quebec for such land, and their decision shall be final.

Proceedings when the T. H. Q. shall require to take lands.

Arbitration.

Award to be final.

XCII. And be it enacted, That if the proprietor of the land shall, after having been notified by the Trinity House of Quebec, refuse or neglect to appoint an arbitrator to fix the price thereof, or if the two arbitrators appointed by the two parties interested, shall not agree upon a third, one of the Judges of the Court of Queen's Bench shall name an arbitrator for the proprietor, or, as the case may be, the third arbitrator: in case of the death of an arbitrator, or his refusal to act, the party who shall have appointed him, or the judge, as the case may be, may appoint another in his place; and the three arbitrators being respectively sworn by one of the Judges of the Court of Queen's Bench, shall decide finally on the price to be paid by the Trinity House of Quebec, for the land.

Judge to appoint an Arbitrator in certain cases.

Case of death or refusal to act.

XCIII. And be it enacted, That when the arbitrators shall have determined the price of any land, the Trinity House of Quebec may take the same, and become proprietor thereof, by paying the price so fixed, either to the proprietor, or into the hands of the Prothonotary of the Court of Queen's Bench for the District of Quebec, for the

T. H. Q. may take the said land on paying or depositing the price.

proprietor,

Compensation to represent the land and to be dealt with accordingly.

proprietor, and the price agreed upon or awarded for any land taken or kept by the Trinity House of Quebec shall be in the place and stead of the land, and all claims to or upon the land shall be converted into claims to or upon such price; and if the Trinity House of Quebec have reason to apprehend that any claims may exist to or upon the price, on the part of any third party, it may pay such price into the hands of the Prothonotary of the Court of Queen's Bench for the District of Quebec, filing at the same time a copy of the deed of purchase or of the award, and the Court, after having caused due notice to be given for calling in all claimants, shall make such Order for the distribution of the price and with regard to interest thereon and to costs as to law may appertain.

No purchase of land or vessel to be made without consent of the Governor in Council, &c.

XCIV. And be it enacted, That the Trinity House of Quebec shall not pay any sum of money, either for the purchase of a steamer or other vessel, or of a new piece of land, or for the value of a piece of land already occupied but not owned by it, without the previous sanction of the Governor in Council; and such purchase money or indemnity shall be paid out of the moneys raised, and not specially appropriated by this Act, or out of any other sum of money appropriated generally for the improvement of the River and Gulf of St. Lawrence.

Penalty for running foul of buoys, &c.

XCIV. And be it enacted, That any person running foul of and damaging any buoy, or mooring any vessel to any vessel placed in the river as a light ship, or to any buoy belonging to the Trinity House of Quebec shall, over and above the payment of the expenses of replacing or repairing the same, incur a penalty not exceeding ten pounds.

T. H. Q. may borrow money.

XCVI. And be it enacted, That the Trinity House of Quebec may borrow money to the amount of ten thousand pounds including the amount which may have been borrowed under the Ordinance of the Governor and Special Council of the Province of Lower Canada, passed in the fourth year of Her Majesty's Reign, and intituled, *An Ordinance to authorize the Corporation of the Trinity House of Quebec to borrow a certain sum of money, and for other purposes relative to the said Corporation*, which Ordinance is hereby repealed without prejudice to any right thereby vested in the lenders.

4 Vict. c. 5 cited.

Loans to have a preference.

XCVII. And be it enacted, That every sum of money borrowed under the said Ordinance or under this Act, and the interest thereon, shall be paid out of the funds of the Trinity House of Quebec, in preference to any other payment or charge whatsoever.

Salvage allowed in certain cases.

XCVIII. And be it enacted, That every person finding any effects or thing in the River St. Lawrence or on the beach thereof, or in any part of the Rivers running into the same within the ebbing and flowing of the tide, shall, within four days if the same be found within the Harbour of Quebec and within fifteen days if the same be found within any other part of the Port of Quebec, give notice thereof to the Harbour Master, under a penalty not exceeding ten pounds, and shall give him a description of the thing found: If in the meantime the Master or Owner claims the same, he shall pay to the finder, for his trouble, a fair remuneration, to be fixed by the Trinity House of Quebec when the parties cannot agree upon it.

Effects found in the River and not claimed, &c.

XCIX. And be it enacted, That when any thing found in the River St. Lawrence has not been claimed, the Harbour Master may advertise it during four weeks, in English and in French in two or more newspapers published at Quebec, and if within six months

months after such publication the same be not claimed, the Harbour Master shall sell the same publicly, and after deducting the expenses of advertising, sale or otherwise, two thirds of the proceeds of the sale shall revert to the finder, and the remaining third to the Trinity House of Quebec.

C. And be it enacted, That in no case shall a suit be brought for contravention of this Act or of any By-law of the Trinity House of Quebec after twelve months from the date of such contravention. Limitation of suits.

CI. And be it enacted, That at any meeting of the Trinity House of Quebec, all questions shall be decided by the majority of the Members present. Majority to determine questions.

CII. And be it enacted, That the persons and authorities required by this Act to administer an oath for any purpose are respectively empowered to administer the same, and shall do so without remuneration. Administering oaths.

CIII. And be it enacted, That every person who shall knowingly swear falsely in any case where by this Act an oath is authorized or required, shall be deemed guilty of wilful and corrupt perjury, and punishable accordingly. False swearing.

CIV. And be it enacted, That the Trinity House of Quebec may purchase a steam-boat or other vessel for its use. T. H. Q. may buy a steamer.

CV. And be it enacted, That all suits for penalties before the Trinity House of Quebec may, except where it is otherwise herein specially provided, be brought in the name of the Harbour Master or of any other person.

CVI. And be it enacted, That all pecuniary penalties paid by Pilots, under this Act or under the By-laws of the Trinity House of Quebec, shall form part of the Pilot Fund, and those paid by others than Pilots and not hereby otherwise appropriated, shall form part of the Funds of the Trinity House of Quebec. Penalties how appropriated.

CVII. And be it enacted, That in any suit wherein the Harbour Master is the prosecutor and the successful party, he shall recover costs which shall go to the Funds of the Trinity House of Quebec, and when he is unsuccessful, costs shall be awarded against him and paid out of the said funds.

CVIII. And be it enacted, That all moneys collected or borrowed by the Trinity House of Quebec under this Act, and not hereby otherwise appropriated, shall be employed by the Corporation in improving the navigation of the River St. Lawrence, or for any other purpose consistent with this Act. Other moneys of T. H. Q.

CIX. And be it enacted, That the Trinity House of Quebec shall publish yearly in the month of January (in English in a Quebec newspaper published in English, and in French in a Quebec newspaper published in French,) a general statement of the moneys received and paid which form part of the Pilot Fund, the amount of pecuniary penalties paid to this Fund, the amount received for Per Centage or Contribution of Pilots, the names of persons receiving pensions and aid out of the said Fund, and the amount received by each. Account of the Pilot Fund to be published.

T. H. Q. to lay statements before the Legislature.

CX. And be it enacted, That the Trinity House of Quebec shall lay before the Legislative Assembly of this Province, within fifteen days after the opening of each session, a detailed statement of all sums received and paid, forming part of the Funds of the Corporation, or of the Pilots' Fund.

Governor may require accounts at any time.

CXI. And be it enacted, That the Governor may at any time and in any manner He may think proper, require from the Trinity House of Quebec an account of the moneys received and paid by it.

How payments shall be made by the Treasurer. Treasurer to give security.

CXII. And be it enacted, That every payment made by the Treasurer of the Trinity House of Quebec, shall be made upon Certificate of the Clerk of the Corporation.

CXIII. And be it enacted, That the Treasurer of the Trinity House of Quebec shall, before entering on the duties of his office, give security to Her Majesty to such amount and in such manner as the Governor in Council shall from time to time direct.

Officers of T. H. Q. to be subject to its orders.

CXIV. And be it enacted, That the Harbour Master, the Assistant Harbour Master, the Superintendents of Pilots, the Treasurer, the Clerk, the Bailiff and the other Officers and Functionaries of the Trinity House of Quebec, shall be subject to the By-laws and Orders of the Corporation, which shall define their respective duties and powers.

Clerk and Treasurer may appoint Deputies.

CXV. And be it enacted, That the Clerk and the Treasurer of the Trinity House of Quebec may in case of sickness or of absence, appoint Deputies who shall act in their place and shall have their powers and duties, such Deputies being subject to the approbation of the Trinity House of Quebec; but the Clerk and the Treasurer shall not in any case be relieved from the responsibility attached to their respective offices.

Exemptions in favor of T. H. Q.

CXVI. And be it enacted, That the Members and Officers of the Trinity House of Quebec shall not be liable to serve either as Jurors or as Assessors or Constables.

And of Pilot.

CXVII. And be it enacted, That no Branch Pilot shall be liable to serve either as a Militia-man or Petit Juror or Constable.

Accounting clause.

CXVIII. And be it enacted, That all public moneys received and paid under this Act, shall be accounted for to Her Majesty in such manner and form as Her Majesty shall direct.

Interpretation clause.

CXIX. And be it enacted, That the words hereinafter mentioned, shall for the purposes of this Act, be construed and shall mean as follows:

First. The Master;—The Master, Deputy Master, or as the case may be, the Senior Warden, in all cases where any thing is required to be done by the Master, and generally where any Officer is named his Deputy or the person legally empowered to perform the duties of his office, shall be included;

Secondly. Vessel; any sailing vessel, steam vessel, schooner or other vessel or craft.

Thirdly. Master of a vessel; the Captain, Master, Commander, or other Officer or person in charge of such vessel.

Fourthly. Oath; an oath or an affirmation in cases where the law allows an affirmation in place of an oath, and false swearing shall include false affirmation.

Public Act.

CXX. And be it enacted, That this Act shall be deemed a Public Act, and as such shall be judicially noticed by all Judges, Justices of the Peace, and others.

SCHEDULE

SCHEDULE A.

TABLE I.—Table of Rates of Pilotage for and below the Harbour of Quebec.

		For each foot of draught of water.			
FROM	TO	From the 1st May to the 10th November.	From the 10th November to the 19th November.	From the 19th November to the 1st March.	From the 1st March to the 1st May.
Bic Island, or any other place below the anchorage of the Brandy Pots, off Hare Island,.....	.....	1s. 0d.	23s. 0d.	25s. 0d.	20s. 6d.
The anchorage ground at the Brandy Pots, off Hare Island, or any place above the said anchorage ground and below St. Roch's Point,.....	..... Anchorage or mooring ground in the Basin or Harbour of Quebec.....	$\frac{2}{3}$ of this sum.	$\frac{2}{3}$ of this sum.	$\frac{2}{3}$ of this sum.	$\frac{2}{3}$ of this sum.
St. Roch's Point, or any place above this Point and below the <i>Pointe-aux-Pins</i> on Crane Island.	.....	$\frac{1}{2}$ do do	$\frac{1}{2}$ do do	$\frac{1}{2}$ do do	$\frac{1}{2}$ do do
<i>Pointe-aux-Pins</i> on Crane Island, or any place below St. Patrick's Hole,.....	.....	$\frac{1}{4}$ do do	$\frac{1}{4}$ do do	$\frac{1}{4}$ do do	$\frac{1}{4}$ do do
The anchorage or mooring ground in the Basin or Harbour of Quebec,.....	Bic Island, or the place where the Pilot shall be discharged in the River below Quebec.....	15s. 9d.	20s. 9d.	25s. 9d.	15s. 3d.

Pilots taking charge of Vessels at St. Patrick's Hole, or above it, shall be entitled to no more than the sum allowed in Table II, for piloting vessels from one part of the Harbour to another.

SCHEDULE A.—(Continuation.)

TABLE II.—Table of Rates of Pilotage for the Harbour of Quebec and below.

FROM	TO	
Any Wharf in the Harbour of Quebec between <i>Pointe-à-Carcis</i> below, and Brehaut's Wharf above, both inclusive,.....	{ Any other Wharf within the said limits,..... }	11s. 8d.
Any place in the Harbour of Quebec, not being a Wharf within the above mentioned limits,	{ Any other place in the said Harbour not being a Wharf within the said limits,..... }	23s. 4d.

SCHEDULE B.

Form of License.

This is to certify that
 Commander, *as the case may be*) of the
 Quebec, the sum of
 Pence per Ton, according to the Register of the said
 and the said
 to navigate the River St. Lawrence, within the limits of this Province, and to have the benefit of the light-houses which the said Corporation hath erected to facilitate the navigation thereof, during the navigation season of the year one thousand eight hundred

Owner (*or Master or*
 named the
 has paid to the Treasurer of the Trinity House of
 being at the rate of
 the
 is, by virtue thereof, entitled

Given in the City of Quebec, under the Hand of the Master of the Trinity House of
 Quebec, and under the Seal of the said Corporation, this
 day of
 and in the
 in the year of Our Lord
 year of Her Majesty's Reign.

[L. S.]

(Signature.)



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CXV.

An Act to authorize and enable the Trustees of the Quebec Turnpike Roads to acquire and assume the possession and property of the Bridge called Dorchester Bridge, and for other purposes.

[30th May, 1849.]

WHEREAS in and by an Act of the Parliament of the Province of Lower Canada, passed in the forty-eighth year of the Reign of His late Majesty King George the Third, intituled, *An Act for extending the duration of the Patent granted for erecting the Bridge over the River Saint Charles, now called Dorchester Bridge*, it was amongst other things in effect provided and enacted, That after the expiration of fifty years from the twenty-second day of April, in the year of Our Lord, one thousand seven hundred and eighty-nine, being the date of certain Letters Patent therein mentioned, it should be lawful for His said late Majesty, His Heirs and Successors, to assume the possession and property of the Bridge over the River Saint Charles near Quebec, called Dorchester Bridge, therein mentioned, upon paying to Nathaniel Taylor and others, therein designated as the Proprietors of the said Bridge, their Heirs, Executors, Curators or Assigns, the value which the same might at the time of such assumption bear and be worth; And whereas in and by a certain other Act of the Parliament of the said Province of Lower-Canada, passed in the fifty-ninth year of the Reign of His said late Majesty King George the Third, intituled, *An Act to authorize Anthony Anderson and others, Proprietors of Dorchester Bridge, to remove the same*, it was amongst other things in effect provided, That, if His said late Majesty should, after the expiration of fifty years from the date of the Letters Patent, in virtue of which Dorchester Bridge aforesaid had been constructed, to wit, the Letters Patent hereinbefore mentioned, assume the possession and property of the Draw-bridge, which the said Anthony Anderson and others, in the said last mentioned Act named and designated as the then Proprietors of Dorchester Bridge aforesaid, were thereby authorized to build and erect in lieu thereof, over the said River Saint Charles, nearer to the mouth of the said River, from the Suburbs of Saint Roch on the prolongation of Craig Street, to the Land belonging to or in possession of the above named Anthony Anderson on the opposite side of the said River Saint Charles (for which purpose he the said Anthony Anderson had voluntarily offered a sufficient space or portion of ground as well as for Roads of communication from the said Bridge with the main Roads leading to the Parishes of Beauport and Charlesbourg) with the Toll-House, Turnpike and the dependencies which might thereunto appertain and belong, and the ascent and approaches thereto, the Proprietors of the said Draw-bridge, their Heirs, Executors, Curators and Assigns, should be entitled to recover and have from His Majesty, His Heirs and Successors, the full and entire value which

Preamble.

Act of L. C.
48 G. 3 c. 10
recited.

Act of L. C.
59 G. 3 c. 28
recited.

Ordinance of
L. C. 4 Vic. c.
17 recited.

Trustees of
the Quebec
Turnpike
Roads may
borrow an ad-
ditional sum of
£25,000, as
under former
Acts.
Exception.

Rank of new
loans as to
priority.

Trustees may
purchase Dor-
chester Bridge.

which the same should bear and be worth at the time of such assumption, and the Tolls payable for passing over the same should from the time of such assumption appertain and belong to His Majesty, His Heirs and Successors, who should from thenceforward be substituted in the stead of the said Proprietors of the said Draw-bridge for all and every the purposes of the said last mentioned Act; And whereas in and by a certain Ordinance of the Legislature of the said Province of Lower Canada, passed in the fourth year of Her Majesty's Reign, intituled, *An Ordinance to provide for the improvement of certain Roads in the neighbourhood of and leading to the City of Quebec, and to raise a fund for that purpose*, it was amongst other things ordained and enacted, That all property and estate, moveable and immoveable, acquired by the Trustees of the Quebec Turnpike Roads should be vested in Her Majesty for the public uses of the Province, and it is desirable that the said Trustees should accordingly be authorized and enabled to acquire and assume the possession and property of the said Draw-bridge, now called Dorchester Bridge, with the Toll-House, Turnpike and other dependencies, and the ascents and approaches thereto as aforesaid; And whereas it is also expedient to extend the provisions of the said last mentioned Ordinance to the Roads hereinafter mentioned: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall be lawful for the Trustees of the Quebec Turnpike Roads to raise by way of loan for the purposes of this Act, a sum not exceeding twenty-five thousand pounds currency; to which loan, and to the debentures to be issued in consequence thereof, and to all other matters incident to the said loan, all the provisions of the said last mentioned Ordinance touching the loan thereby authorized, are hereby extended and shall apply, excepting always, that the rate of interest on the loan to be raised under the authority of this Act shall not in any case exceed the rate of six per centum per annum, and that no money shall be advanced out of the Provincial Funds to pay such interest: and all debentures issued under this Act shall, so far as regards the interest payable thereon, take precedence and have priority of lien on the Tolls and other moneys which may come into the possession and be at the disposal of the said Trustees, over the interest payable on all debentures granted or to be granted by the said Trustees for any loan already authorized by law, as well as over all claims for repayment of any sums of money advanced or to be advanced to the said Trustees by the Receiver General of this Province.

II. And be it enacted, That it shall be lawful for the said Trustees, and they are hereby expressly authorized and required, as soon as possible after the passing of this Act, to acquire and assume the possession and property of the said Draw-bridge, now called Dorchester Bridge, with the Toll-house, Turnpike and dependencies which may thereunto appertain and belong, and the ascents and approaches thereto as aforesaid, first paying to the proprietors thereof the full end entire value which the same shall bear and be worth at the time of such assumption, to be offered, decided or estimated and paid, or lodged and distributed, as the case may require, according to the terms and provisions of the said last mentioned Ordinance.

III. And be it enacted, That if any shares in the said Bridge shall at the time of such assumption be vested in or belong to any child unborn, minor or interdicted person, or vacant estate, or the executor of the will of any person deceased, it shall be lawful for the Tutor or Curator of such child unborn, minor or interdicted person, or vacant estate, or for such executor, to sell and convey such shares to the said Trustees, and to become a party to and adopt all such steps and proceedings as may be necessary for that purpose, and that all contracts, agreements, sales, conveyances and other assurances made by any such tutor, curator or executor in pursuance of this Act, shall be valid and effectual in law to all intents and purposes whatsoever; any law, statute, usage or custom to the contrary notwithstanding.

Case of shares being vested in minors, &c. provided for.

IV. And be it enacted, That from the time of the assumption of the said Draw-bridge by the said Trustees as aforesaid, all and every the provisions of the said Act hereinbefore secondly cited, in so far as the same may not be inconsistent with the provisions of the said Ordinance, or of this Act, shall apply to them as the proprietors thereof, and to the Tolls to be levied for passing thereon in virtue of this Act, save and except that it shall not from thenceforward be lawful for any person to pass any of the fords in the said river with horses, cattle or carriages, or other animals or vehicles subject to Tolls under the said Ordinance or any Act amending the same, or to cross any such horses, cattle or carriages, animals or vehicles over the same in canoes or boats or otherwise, either with or without gain or hire, within the utmost limits of the exclusive privilege heretofore granted to or enjoyed by the proprietors of the said Bridge; and persons offending against this clause shall be subject to the penalty imposed by the thirty-third section of the said Ordinance.

Provisions of 59 G. 3 c. 28 continued.

Exceptions:

V. And be it enacted, That the provisions of the said Ordinance, and the powers of the Trustees appointed under the authority thereof, shall extend to the roads and parts of roads hereinafter mentioned and described, as fully to all intents and purposes whatsoever, as if the said roads and parts of roads had been mentioned and described in the ninth section of the said Ordinance, as among those to which the said provisions and powers should extend, that is to say:

Certain roads near Quebec placed under the control of the Trustees.

Firstly. The road leading from Dorchester Bridge aforesaid to the Church of the Parish of Charlesbourg;

Secondly. The road leading from the Bridge over the River Montmorency near the great fall on the said River, as far as the boundary line between the Parishes of l'Ange Gardien and Chateau Richer, in continuation of the road seventhly described in the said Ordinance;

Thirdly. The road leading from the said Church of the Parish of Charlesbourg to the Indian Village of Lorette;

Fourthly. The road leading from the said Village to the road commonly called *Route de l'Eglise*, in the Parish of Saint Ambroise;

Fifthly. The said *Route de l'Eglise*;

Sixthly.

Sixthly. The road commonly called *l'Ormière*, from its intersection with the last mentioned road, to its intersection with the road leading from Champigny Hill to the Bridge commonly called the "Red Bridge" or "Commissioners' Bridge."

Proviso:

Seventhly. The road commonly called Saint Foy Road, from a point one hundred yards beyond the place where it is intersected by the road commonly called *la Suède*, to the top of the hill at Cap Rouge: Provided always, that the said Trustees shall have power, if they shall deem it expedient, to straighten the said Road from a Point about thirty-four chains to the north of the bend of the road near the middle of the Cap Rouge Hill, so as to carry the road in as nearly a direct line as may be practicable from the said point to the said bend.

Eighthly. The road leading from the Saint Foy road near the Church of the Parish of Saint Foy to the road called Saint Lewis Road or *La Grande Allée*;

Ninthly. The Cove or Beach Road between the Cliff and the River Saint Lawrence for one mile and a half beyond the south-west extremity of Sillery Cove;

Tenthly. The road leading from the Church of the Parish of Charlesbourg to the Village of Saint Pierre, for one mile and a half only;

Order in which the Trustees shall improve such roads.

Governor may authorize deviations from such order.

Eleventhly. The Road fifthly mentioned and described in the ninth section of the said Ordinance from the south-western side of the land known as Hough's farm, for one mile in the direction of the Church of the Parish of Saint Augustin; and the said roads and parts of roads, or such of the said roads and parts of roads as the balance which may remain of the Loan raised by the said Trustees under this Act, after paying the value of the said Bridge and premises, may enable the said Trustees to make, improve and repair, shall be made, improved and repaired by the said Trustees in the order in which they are mentioned in this Act: Provided always, that it shall be lawful for His Excellency the Governor General in Council from time to time to authorize the said Trustees to deviate from the said order in any respect in which it may be deemed advisable so to do, for the purpose of more speedily raising the said Loan or otherwise furthering the objects of this Act and the interests of the public in connection therewith.

Act 8 V. c. 55 sec. 4 repealed.

Tolls at a certain gate limited.

VI. And be it enacted, That the fourth section of the Act passed in the eighth year of Her Majesty's Reign, intituled, *An Act to amend a certain Ordinance therein mentioned, relative to the Turnpike Roads near Quebec*, be and the same is hereby repealed; that as soon as the said Trustees shall have assumed the property and possession of the said Dorchester Bridge, the Toll-Gate, now placed near the entrance of the road leading to Beauport, shall be removed to the south end of the said Bridge, and the Tolls payable at such Gate for the use of the said Bridge and of either of the Roads leading to Beauport or Charlesbourg, shall not be greater by more than one half than the Tolls payable at any other Gate erected by the said Trustees, and the payment and commutation thereof shall be subject to the same regulations and provisions of law in every respect.

As to lands forming part of old roads and not required in

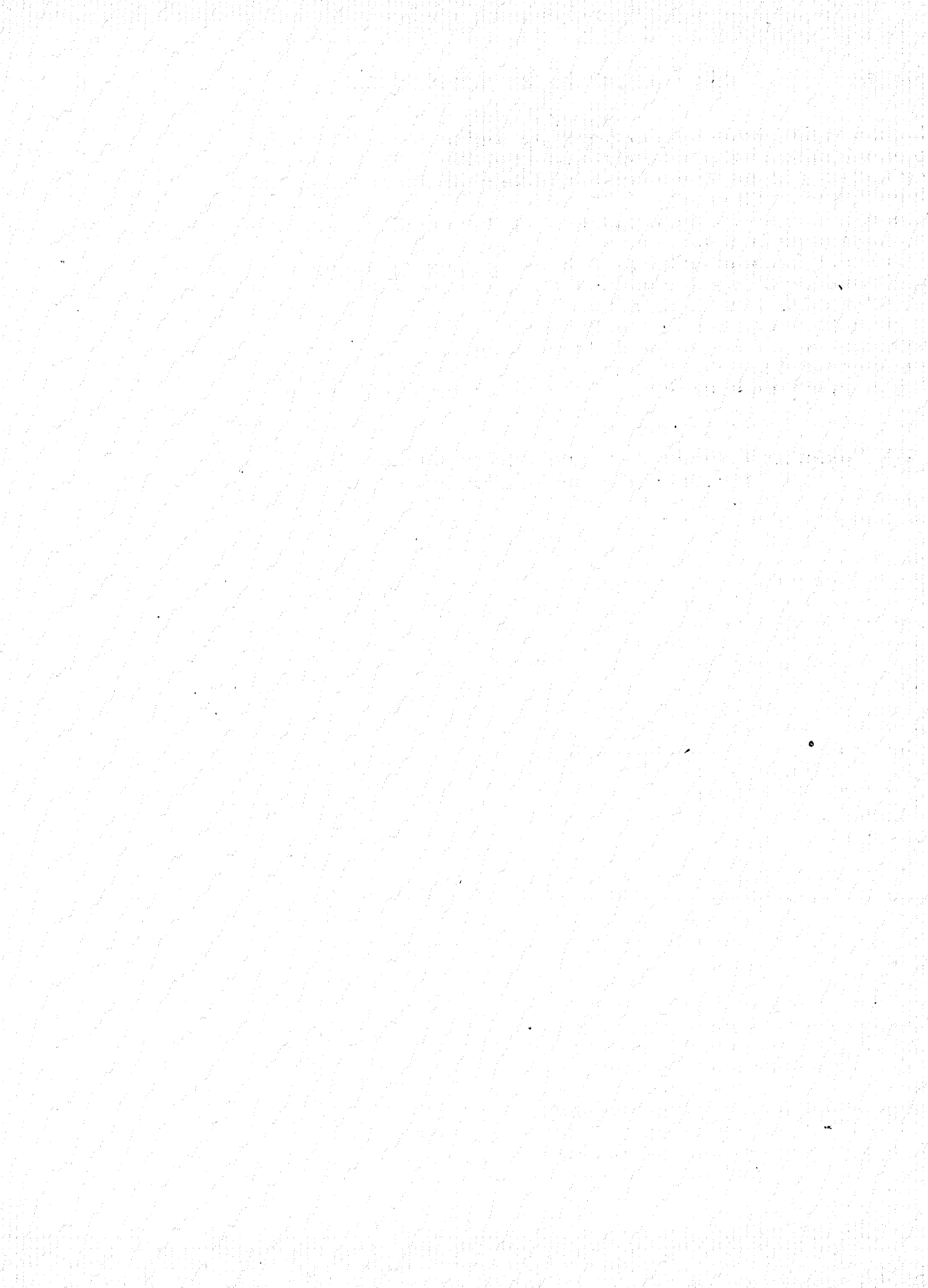
VII. And be it enacted, That if at any time it shall appear to the said Trustees to be advisable to change the direction of the said roads and parts of roads, or of any other roads or parts of roads subject to their management, the portions of ground acquired by

by them for that purpose shall become and be portions of the said roads or parts of roads respectively, in lieu and stead of the corresponding portions previously used as such, which shall vest in and belong to the several and respective owners of the adjoining lands from which the same were originally taken ; and where such owners or any of them shall have been entitled to payment or compensation in respect of any portions of ground so required to be taken by the said Trustees, or of any damage suffered or to be suffered by reason of such change, the value of the ground about to revert to them as aforesaid, may and shall be estimated and taken into account in deduction or discharge of such payment or compensation ; but if such old roads shall lead to any land, house or place, which cannot in the opinion of such Trustees be accommodated with a convenient way and passage from such new road, then and in such case such old road and every part thereof shall remain subject to the right of way and passage to such land, house or place respectively.

consequence
of any change
in the position
of such roads.

Old road to be
left in certain
cases.

MONTREAL : Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.





ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CXVI.

An Act to provide for the Health of the City of Quebec.

[30th May, 1849.]

WHEREAS it is expedient to amend the Ordinance passed to incorporate the City of Quebec, and also the several Acts passed to amend the said Ordinance in so far as the same vest power and authority in the Council of the said City to make By-laws and Regulations touching the health, cleanliness and local government of the said City: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the Board of Health which the said Council may establish, shall, in addition to the other powers which may be given to it, have power and authority to examine into all causes of sickness, nuisances and sources of filth that may be deemed injurious to the health of the inhabitants of the said City, which do or may exist as well within the limits of the said City as in all parts adjacent thereto extending beyond the line of low water of the River St. Lawrence and the River St. Charles, and also as far as the several toll gates erected near the said City, or in any ship or vessel within the Harbour of Quebec, and the said nuisances and sources of filth to destroy, remove or prevent, as the case may require.

Preamble.

Board of Health established by City Council may enquire into causes of sickness, &c., within certain limits.

II. And be it enacted, That whenever the said Board of Health shall deem it necessary for the preservation of the health of the inhabitants, to enter forcibly any building, yard, piece of ground, ship or vessel, and entry has been refused by the owner, occupier or person having the care thereof, any Member of the Board of Health may apply to any Justice of the Peace of and for the District of Quebec and on oath complain that it is the opinion of the majority of the Members of the said Board, that a building, yard, piece of ground, ship or vessel within the limits aforesaid, describing the same, ought to be examined, to ascertain if there be therein any nuisance, source of filth, cause of disease or any other thing injurious to the health of the inhabitants; and such Justice shall thereupon forthwith issue his Warrant to any one of the Constables or to any one of the Police force for the said City, ordering such Constable or person of the Police force to take with him sufficient aid and assistance, and accompanied by any two Members of the said Board or by the Health Officer, to repair to the place, building or vessel to be examined between the hour of six in the morning and eight in the

Board of Health may with assistance of Police, and at certain hours, enter forcibly buildings, the entry whereof has been refused by the owner, and remove nuisances.

the evening, and then if such nuisance, source of filth, cause of disease or other thing injurious to the health of the inhabitants be found, the same immediately to destroy, remove or prevent, as the case may require, under the directions and agreeable to the orders that may be given verbally by such Members of the Board, or Health Officer who accompanied the said Peace Officer for the purpose aforesaid.

Expense of removing nuisances to be paid by persons causing the same.

III. And be it enacted, That the expenses incurred in destroying, removing or preventing any such nuisance, source of filth, cause of disease or other thing injurious to the health of the said inhabitants, and all the costs of proceedings relative thereto, shall be paid by the person who caused such nuisance, source of filth, cause of disease or other thing, or allowed the same to exist, which expenses, together with the costs of prosecution, shall be recovered on the information of the Mayor and Councillors of the said City before one Justice of the Peace, who is hereby empowered to hear, try and determine the same on the oath of one credible witness, and on conviction to issue a Warrant ordering the amount awarded, with costs, to be levied by distress and sale of the offender's goods and chattels.

Putrid meat, &c., may be seized and destroyed.

IV. And be it enacted, That any two Members of the Board of Health may on view take, seize and destroy any unwholesome, putrid or tainted meat, fish, bread, vegetable or other article of provision which in their opinion shall not be fit for food and nourishment, and may be injurious to the health of persons using the same, and that the costs incurred in such proceedings shall be paid by the person in whose possession the said provisions or articles were found.

When cholera &c., exist, the number of occupants of any house may be limited.

Penalty for contravention.

V. And be it enacted, That whenever Typhus Fever or Asiatic Cholera or any other contagious or infectious disease shall exist within the limits aforesaid, it shall be lawful for the Council of the said City to limit the number of occupants in any building within the said limits; and any person who shall occupy such building or allow another person to occupy the same contrary to the order of the said Council, may on the complaint of the Mayor and Councillors of the said City before any one Justice of the Peace, on the oath of one credible witness, and in a summary manner, be convicted thereof, and thereupon shall by such Justice be sentenced to pay a fine or penalty not exceeding five pounds currency, and to be imprisoned in the Common Gaol of the District of Quebec and therein kept for any period not exceeding one calendar month.

City Council may make rules, &c., as to articles capable of conveying infection.

VI. And be it enacted, That the Council of the said City shall have power, from time to time, to make and establish all such Rules, Orders and Regulations relating to any clothing or article capable of containing or conveying any infectious disease, or causing any sickness, as they may deem proper for the public safety.

Prisoners in Common Gaol attacked with contagious diseases, &c. may be sent to any hospital or other proper place.

VII. And be it enacted, That whenever any prisoner confined in the Common Gaol of the said District shall be attacked with any contagious or infectious disorder which, in the opinion of the said Board of Health, endangers the health of the other prisoners in the said Gaol, the said Board of Health, upon the recommendation of the Physician attending the said Gaol, may remove such prisoner from the said Gaol to such Hospital, or other place which the said Board of Health may appoint and determine, there to remain in the custody and under the directions of the person in charge of the said Hospital or place, until such prisoner recovers or dies; and in case of recovery such person shall

be

be sent back by the said person in charge, to the said Gaol, and the said person in charge shall file, in the office of the Clerk of the Peace for the said District, a certificate stating how long such prisoner remained in his custody, and shall state whether he is dead or has been sent back to Gaol.

VIII. And be it enacted, That all Medical Practitioners within the aforesaid limits shall make a Report to the said Board of Health of the patients having any infectious or contagious disease they have been called upon to attend; and any such Practitioner who shall not make such Report in the manner and at the times required by any By-law of the said Council, shall incur a penalty not exceeding five pounds of current money for each day he shall omit to make such Report.

Medical Practitioners to make a report of patients.
Penalty for neglect.

IX. And be it enacted, That the said Council may appoint any number of Health Officers it may deem requisite to assist in enforcing obedience to and carrying into execution the By-laws of the Council and the Orders of the said Board, and that the said Council may, at any time, remove any member of the said Board and any Health Officer, and appoint others in their place, and such Health Officer shall be deemed and considered for all and every the purposes of the ninth section of the Act hereinafter mentioned, to have been appointed under a By-law made by the said City Council.

Health Officers may be appointed.

X. And be it enacted, That the said Council shall make a Table of the Fees to be paid to the persons employed by the said Board of Health.

Council to make a Table of fees.

XI. And be it enacted, That all the By-laws made by the said Council for the preservation of the Health of the Inhabitants of the said City, shall be published at least in two newspapers, one in the English and one in the French language.

By-laws relating to Health to be published in both languages.

XII. And be it enacted, That all forfeitures and penalties imposed by this Act shall be prosecuted on the information of the Mayor and Councillors of the said City before any one Justice of the Peace, in a summary manner, and such Justice shall have power and authority on the oath of one credible witness to convict the offender; and on such conviction to award the payment of the penalty and the imprisonment, as the case may be, imposed by this Act, together with the costs of prosecution; which penalty and costs shall be levied by distress and sale of the goods and chattels of the offender, by Warrant under the hand and seal of any Justice of the Peace, and paid to the Treasurer of the City, to form part of the funds of the said Corporation: And it is hereby enacted, That no Writ of *Certiorari* shall in any case be allowed upon any proceeding or conviction had under or by virtue of this Act.

Forfeitures imposed by this Act how recovered and appropriated.

No *Certiorari* allowed.

XIII. And be it enacted, That it shall not be necessary in any information at the suit of the said Mayor and Councillors before any Justice as above directed, to recite the By-law which the party accused has violated or disobeyed, but it shall suffice to allege that the offence has been committed against a By-law of the said Council without any recital of the same.

In suits by the Corporation, laws need not be recited.

XIV. And be it enacted, That in prosecutions brought to recover such penalties and forfeitures, it shall not be necessary to produce the original of the By-laws made by the Council, but that a copy thereof, proved by one credible witness to be a true copy, shall be received as sufficient legal evidence of such By-law.

Copies of By-laws sufficient.

By-laws need not be sanctioned by the Governor.

XV. And be it enacted, That it shall not be requisite to obtain the sanction or approbation by the Governor General of the Province of any By-law passed by the said Council for the preservation of the Health of the Inhabitants of the said City.

Indemnity for things done under By-laws.

XVI. And be it enacted, That no Member of the said Board of Health, no Health Officer, or other person employed by the said Board shall be responsible in damages to any person for the due execution of any By-law made, or of any order given by the said Council touching and concerning the Health of the said Inhabitants, unless malicious intent be proved.

Penalty on persons violating By-laws for Health.

XVII. And be it enacted, That all persons who shall disobey or violate any By-law made by the said Council for the Health of the said Inhabitants, and for which violation or disobedience, a penalty or forfeiture is not specially imposed by this Act, shall incur a fine or penalty not exceeding five pounds of lawful current money; and may at the discretion of the convicting Justice, be imprisoned in the Common Gaol of the District of Quebec, and therein kept for any period of time not exceeding one month.

Act to be suspended while regulations under c. 8, of this Session are in force.

XVIII. And be it enacted, That when and so often as any directions and regulations affecting the City of Quebec, shall be issued and published by any Central Board of Health, under the provisions of the Act of this Session, intituled, *An Act to make provision for the preservation of the Public Health, in certain emergencies*, and whilst the same shall continue in force, this Act shall become and be suspended.

MONTREAL: Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CXVII.

An Act to repeal a certain Act and Ordinance therein mentioned, relating to the Trinity House at Montreal, and to amend and consolidate the provisions thereof.

[30th May, 1849.]

WHEREAS it is expedient to provide for the better regulation of that part of the River Saint Lawrence between the Basin of Portneuf exclusively in the County of Portneuf in the District of Quebec, and the Province Line formerly dividing the Provinces of Upper and Lower Canada, and of the several Rivers falling into the River St. Lawrence within the said limits, and of the Shipping therein, and of the Pilots employed in the navigation thereof, and to continue a Trinity House in the City of Montreal, independent of, and distinct from the Trinity House of Quebec, and for other purposes; And whereas the several Acts under which the Trinity House of Quebec was heretofore constituted and governed are repealed by an Act of this Session, whereby the jurisdiction of the said Trinity House is limited to places below the said Basin of Portneuf: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the Ordinance of the Governor and Special Council for the affairs of the late Province of Lower Canada, passed in the second year of Her Majesty's Reign, and intituled, *An Ordinance to suspend in part certain Acts therein mentioned, and to establish and incorporate a Trinity House in the City of Montreal*,— and the Act of the Legislature of this Province passed in the Session held in the fourth and fifth years of the Reign of Her present Majesty, and intituled, *An Act to provide for the construction of certain Light Houses and Lights within the Port of Montreal*,— shall be, and the same are hereby repealed; Provided, nevertheless, that no Act or Ordinance or part of an Act or Ordinance repealed by the Act or the Ordinance hereby repealed, shall be revived by the passing of this Act; and notwithstanding the repeal of the Act and the Ordinance hereby repealed, all matters and things which might have been done, and all proceedings which might have been taken or prosecuted, relating to any offences which shall have been committed, or to any matters which shall have happened, or to any pilotage or other moneys which shall have become due, or to any fines or penalties which shall have been incurred before the passing of this Act, may still be done and prosecuted, and the offences may be dealt with and punished, and the pilotage

Preamble.

L. C. Ordinance, 2, Vict. (3) c. 19, repealed.

Canada, 4 and 5 Vict. c. 59, repealed.

Repeal of such Act and Ordinance not to revive former Acts and Ordinances, &c.

Proviso.
The Corpora-
tion of the
Trinity House
of Montreal
to continue.

pilotage and other moneys may be recovered and dealt with, and the fines and penalties may be enforced and applied as if the Act and the Ordinance hereby repealed continued in force : Provided always, that nothing in this Act contained shall operate as a dissolution or extinguishment of the said Corporation of the Trinity House of Montreal, as at present established by law, but that the present members thereof, to wit: the present Master, the present Deputy Master, and the present Wardens of the Trinity House of Montreal and their Successors in Office to be appointed as hereinafter provided, shall remain and continue to subsist as, and shall be a Body Corporate and Politic for the purposes of this Act, in name and in deed, by the name of *The Trinity House of Montreal*, and shall continue to have perpetual succession and a Common Seal, with power to change, alter, break, and make new the same, when and as often as they shall think fit so to do, and they and their successors by the same name shall sue and be sued, implead and be impleaded, answer and be answered, in any Court of Record or place of Judicature in this Province, in as large, ample, and beneficial a manner and form as any other body politic and corporate, or any persons able and capable in Law, may or can sue, implead or answer, or be sued, impleaded or answered in any manner whatsoever, and shall be able and capable in Law to purchase, take, acquire, receive, have, hold, possess, enjoy and retain any real or immoveable property, for the purpose of erecting Light-Houses or Beacons, and for the other purposes of this Act ; and also to take, purchase, acquire, receive, hold and possess any personal or moveable property whatsoever for the like or any other purposes of this Act : And provided further, that nothing in this Act contained shall revoke or be construed to revoke the commission or appointment of the present Officers of the said Corporation.

Proviso.

Existing By-
laws continued
until repealed
or altered.

II. Provided always, and be it enacted, That all By-laws, Rules, Orders and Regulations heretofore lawfully made by the said Corporation of the Trinity House of Montreal, and in force at the time of the passing of this Act, and which shall not be at variance with any of the provisions herein contained, shall remain, continue and be in full force and virtue until the same respectively shall be annulled or altered, or other By-laws, Rules, Orders or Regulations made in lieu thereof under this Act, and shall be and are hereby declared to be good and valid By-laws, Rules, Orders and Regulations under this Act, as fully as if they had been made under the authority of the same ; any thing hereinbefore contained to the contrary notwithstanding ; And provided further, that the said Corporation shall within three months from and after the passing of this Act, by a By-law to that effect, regulate and adjust the amount of costs recoverable in and upon the several and respective prosecutions and law proceedings to be commenced and had under this Act.

Proviso.

Governor may
remove and
appoint the
Members and
Officers.

Proviso.

Proviso.

Proviso.

III. And be it enacted, That it shall be lawful for the Governor of this Province, by an Instrument under the Great Seal of this Province, to remove from time to time the said Master, Deputy Master and Wardens, or any or either of them, and to appoint others to be the successors of such as shall be so removed or shall die or resign their trust ; Provided always, and it is hereby enacted, that the Master of the Trinity House of Montreal for the time being, shall always *ex-officio* be the Principal of the said Corporation ; And provided also, that the number of the Wardens shall never exceed seven at any one time ; and it shall also be lawful for the Governor of this Province in like manner to appoint and remove from time to time such Officers, Clerks and Bailiffs, as he shall judge necessary for the said Corporation ; Provided also, that nothing in this Act shall be construed to make it necessary that any new commission or appointment should

should issue or be made of, or in favour of any Member or Officer of the Trinity House of Montreal, but the said Members and Officers shall continue such until removed under this Act; nor shall any thing herein contained be construed to make the said Corporation a new Corporation any change in the name thereof, notwithstanding.

IV. And be it enacted, That for all the purposes of this Act, the Port of Montreal shall be held and deemed to comprehend all that part of the River St. Lawrence which extends from the Basin of Portneuf, exclusively, in the County of Portneuf, in the District of Quebec, to the Province line formerly dividing the Provinces of Upper and Lower Canada, and shall include the several rivers falling into the St. Lawrence within the said limits; and the Harbour of Montreal, for the said purposes, shall be held and deemed to extend to, and comprehend that part of the said River St. Lawrence extending from the Point commonly called Point St. Charles, to the south-west end of the Military Hospital, below the Quebec Barracks, and it shall be incumbent on the Master, Deputy Master and Wardens to cause to be erected land-marks to indicate the said boundaries, which land-marks shall be taken to determine the same.

Limits of the
Port and Har-
bour of Mont-
real.

V. And be it enacted, That the said Master, Deputy Master and Wardens of the Trinity House of Montreal, or any three of them, of whom the Master, Deputy Master shall always be one, shall and may assemble and adjourn, and again assemble at such times and at such places within the said City of Montreal, as shall seem to them, or to the major part of them so assembled as aforesaid, to be necessary; and being so from time to time assembled as aforesaid, shall have full power and authority to make, ordain and constitute such and so many By-laws, Rules and Orders not repugnant to the Maritime Laws of Great Britain, or to the laws of this Province, or to the express provisions of this Act, as by them or the major part of them so assembled as aforesaid, shall be judged expedient and necessary for the following purposes, to wit: for the direction, conduct, and government of the said Corporation, and of the property real and personal by them held;—for the more convenient, safe and easy navigation of the River St. Lawrence, and of the several navigable rivers within the limits of the Port of Montreal, from the Basin of Portneuf, in the County of Portneuf, to the Province line formerly dividing the Provinces of Upper and Lower Canada, as well by the laying down and taking up of buoys and anchors as by the erecting of light-houses, beacons, or land-marks, placing of light ships or floating lights, the clearing of sands or rocks, or other obstructions, or otherwise howsoever; for the amendment, improvement, and regulation of the Harbour of Montreal and other Harbours within the limits of the said Port, and preventing injury thereto, and for removing and preventing encroachments and encumbrances thereon; for the anchoring, riding, and fastening of all ships, steamers, and other vessels resorting to the said Harbours, and for the better regulating and ordering of the same while lying in the stream, or at any wharf or other landing-place in the said Harbours; for regulating and controlling the use of lights, and of fire places on board of such ships, steamers, or other vessels when lying at any wharf or other landing-place within the said Harbours; for regulating and controlling the landing of gunpowder within the limits of the Harbour of Montreal; for regulating the boiling and melting of pitch, tar, turpentine or resin, or any other inflammable substance, in the said Harbours, or on the beaches thereof; for the maintenance of order and regularity, and the prevention of theft and petty depredations in the said Harbours; for the government and regulation of Pilots for and above the Harbour of
Quebec,

Power to the
Corporation to
assemble and
make By-laws
for certain
purposes.

Quebec, and the same to revoke, alter and amend, as in their opinion will most effectually promote the purposes for which this Act is intended; and for enforcing the execution of the said By-laws, Rules and Orders, the said Master, Deputy Master and Wardens, or any three of them assembled as aforesaid, are hereby further empowered, in and by such By-laws, Rules and Orders, to impose and lay any fine and penalty not exceeding twenty pounds currency upon every person who shall be guilty of infringing such By-laws, Rules and Orders, or to suspend for a time, or to dismiss from office such person, if a Pilot, who shall be guilty of the breach of any such By-laws, Rules and Orders as by them, or the majority of them as aforesaid, shall be judged fit and reasonable: Provided always, that no such By-law, Rule or Order shall have any force or effect until the same shall have been sanctioned and confirmed by the Governor of this Province in Council, and shall thereafter have been published in such public Gazette or newspaper as shall be published by authority; and all such By-laws, Rules and Orders as shall be so made and confirmed as aforesaid, shall be printed and shall be hung up in some public or conspicuous place in the Custom House of the Port of Montreal, and copies thereof, certified by the Clerk or Registrar of the said Corporation, under the seal thereof, shall be admitted as full proof of the same in all Courts of Justice in this Province.

Master, Deputy Master, and Wardens to take an oath.

VI. And be it enacted, That before the said Master, Deputy Master and Wardens shall enter upon the execution of the duties for them prescribed by this Act, or any of them, they shall severally take and subscribe an oath, before one of the Justices of the Court of Queen's Bench for the District of Montreal, in the words following, that is to say:

Oath.

“ I, A. B., do swear that I will truly and impartially, according to the best of my skill and understanding, execute the powers vested in me by a certain Act, intituled, *An Act to repeal a certain Act and an Ordinance therein mentioned, relating to the Trinity House at Montreal, and to amend and consolidate the provisions thereof.* “ So help me God.”

Which oath so taken and subscribed shall be filed of record and remain deposited in the Office of the Prothonotary of the said Court.

Master or Deputy Master and Wardens may decide certain matters. Beaches.

Disputes between Pilots and Shipmasters.

T. H. M. may summon witnesses, &c.

VII. And be it enacted, That it shall be lawful for the Master, Deputy Master and Wardens of the said Trinity House of Montreal, or any three or more of them, to hear and determine all matters and things relating to any beach of the River St. Lawrence, or of any other rivers within the jurisdiction of the Corporation, disputes between any Pilot and any Master of a ship or vessel, respecting any sums of money claimed for pilotage or extra or other services, and also all matters of complaint against Pilots for neglect or misbehaviour in any part of the duty required of them by this Act, or by the By-laws, Rules, Regulations or Orders of them, the said Master, Deputy Master and Wardens, enacted and made by virtue of this Act, as well as to hear and to determine all offences committed against this Act, or against any such By-laws, Rules, Regulations or Orders, by any person or persons whatsoever, for which especial provision is not herein made for trial by other jurisdictions, and that the said Master, Deputy Master and Wardens, or any three of them, are hereby required and empowered, upon information, to summon the party accused, or from whom money shall be claimed, (which service of Summons may be made either within the limits of the Port of Montreal or the Port of Quebec.)

Quebec,) and the witnesses to be heard as well in his favour as against him, by any of the Bailiffs of the said Corporation, and upon the appearance, (or default of the party accused or complained against, in not appearing, upon proof of service of such Summons,) to proceed to the examination of the witness or witnesses upon oath, and to give judgment accordingly, with such costs thereupon as they shall think reasonable; and when the party accused or complained against shall be convicted of such offence, or if judgment be given on such claim by proof or confession, to issue a Warrant or Warrants under the Hand of the Registrar and under the Seal of the said Corporation, empowering and requiring any of the Bailiffs of the Corporation, of the goods and chattels belonging to the party convicted, to levy the amount of such judgment or of any pecuniary fine imposed by such conviction, with the costs of suit, and cause sale thereof to be made, which Warrant shall authorize the Bailiff to go on board of any ship or vessel lying on any part of the River St. Lawrence, or any other river within the limits of the jurisdiction of the said Trinity House of Montreal, and there to execute by *saisie* and sale of goods and chattels which shall then and there be found appertaining to the person or persons against whom such Warrant shall be thus issued, and also so to go on board, on return of *nulla bona*, to execute the Warrants as hereinafter mentioned: and when the goods of such person or persons so convicted, or against whom a judgment shall be given, shall not be found, the said Master, Deputy Master and Wardens, or any three of them, on return of *nulla bona* to them made by such Bailiff, shall and may by Warrant under the Hands of any two of them, and of the Registrar, and the Seal of the said Corporation, addressed to any of the Bailiffs of the said Corporation, cause to be apprehended and committed, the person or persons against whom such judgment shall have been so given, or the person or persons so convicted, to the Common Gaol of the District in which such person shall be found, there to remain until the penalty imposed by such conviction, or the amount of the judgment given, with the costs in either case, shall have been paid and satisfied: Provided always, that no person so committed shall be so detained in prison for a period exceeding twelve calendar months; and provided also, that all disputes between Pilots and Masters of vessels, occurring on the River St. Lawrence, and while the vessel is on her way from Quebec to Montreal, or from Montreal to Quebec, may be heard and determined either by the Master, Deputy Master and Wardens of the Trinity House of Quebec, or by the Master, Deputy Master and Wardens of the Trinity House of Montreal.

May award costs, issue Warrants, and levy amount of Judgment or Fine.

Bailiff may Board any vessel within limits of jurisdiction.

In cases of a return of *nulla bona*.

Proviso.

VIII. Provided always, and be it enacted, That the Master of any ship or vessel, or any person or persons against whom a judgment shall be given as aforesaid, for a sum exceeding twenty pounds currency, upon giving security to the person or persons in whose favour such judgment shall be so rendered, to the satisfaction of the Master or Deputy Master and Wardens who rendered such judgment for the amount thereof, with costs, shall be entitled to an appeal to the Court of Queen's Bench of the District of Montreal, and the said Court of Queen's Bench, upon the hearing of such appeal, shall give such judgment as in its consideration shall be just and right, with costs, and the judgment of such Court of Queen's Bench shall be final except in cases exceeding the sum of five hundred pounds sterling, in which case an appeal shall lie in the ordinary course of law to the Provincial Court of Appeals, and from thence to the Court of Her Majesty, in Her Privy Council: Provided also, that nothing in this Act contained shall extend or be construed to extend or authorize the going on board of Her Majesty's ships or vessels by Her duly commissioned, to serve any Summons, or to execute any

Appeal from Judgments above £20 currency. Security to be given.

If above £500 sterling, to Provincial Court of Appeals, &c. Proviso.

Warrant

Proviso. Warrant of Seizure from the said Corporation : Provided also, that the proceedings and evidence had before the said Master, Deputy Master and Wardens, where their judgment shall exceed the sum of twenty pounds currency, shall be recorded and preserved of record, and also in all cases where the same shall extend to deprive a Pilot of his Branch or License.

What shall be deemed sufficient service of Process. IX. And be it enacted That in all cases where it shall be necessary to serve a Writ of Summons upon any person or persons, for any offence committed against this Act, or against any such By-laws, Regulations or Orders, made and constituted by this Corporation, the service of such Writ, if the party offending is not to be found, or refuse to give his name, shall be deemed a legal service, if the copy of such Writ is left by the Bailiff of the Corporation on board of the ship, vessel, steamer, raft or river craft, belonging to or in charge of the party so offending, between the hours of seven in the morning and six in the afternoon, in the hands of some reasonable person on board, to whom the Bailiff shall explain the purpose of such Summons.

Power to administer oaths. X. And be it enacted, That the said Master, Deputy Master and Wardens, when sitting judicially upon any complaint cognizable by them or any number of them under this Act, are, and each of them is hereby empowered to administer an Oath unto the witness or witnesses who shall be produced on either side, as well as unto the Plaintiff or Plaintiffs, Defendant or Defendants, or any other person whom in such case it shall be necessary to examine on Oath, upon the trial of any such complaints, and any person who shall wilfully swear falsely under such Oath, shall be guilty of wilful and corrupt perjury, and being thereof duly convicted, shall be liable to all the pains and penalties provided by law against that offence.

False swearing.

Where the Defendant has not goods within the jurisdiction of the Trinity House of Montreal— but shall have such within the jurisdiction of the Trinity House of Quebec. XI. And be it enacted, That when any person or persons against whom judgment shall be given by the Master, Deputy Master and Wardens of the Trinity House of Montreal, or any three of them, shall not have sufficient goods and chattels within the jurisdiction of the said Trinity House wherein such judgment shall have been obtained, but shall have goods and chattels within the jurisdiction of the Trinity House of Quebec, it shall be lawful for the Master or Deputy Master and Wardens, under the Hand of the Registrar of the said Trinity House and Seal of the Corporation, to award execution, addressed to the Water Bailiff or any Bailiffs of the Trinity House of Quebec, who after getting the Warrant endorsed by the Master or Deputy Master of the said Trinity House of Quebec (who is hereby required to endorse the same,) in the jurisdiction of which the goods and chattels are situated, shall execute the same, and make return thereof to the Trinity House of Montreal, from which it issued : and such Warrant and Return shall be by him sent to the Registrar of the Trinity House of Montreal, whence the Warrant was originally awarded, to be delivered to the Master, Deputy Master and Wardens of the said Trinity House of Montreal, and the said Master, Deputy Master and Wardens of the said Trinity House of Montreal, may in like manner award a Warrant against the body of a person or persons residing in the jurisdiction of the said Trinity House of Quebec, in cases where such Warrant is by this Act allowed, and such Warrant being endorsed by the Master or Deputy Master of the Trinity House of Quebec, who is hereby required to endorse the same, may be executed within that jurisdiction, and the Water Bailiff or Bailiffs executing the Warrant to him in such case directed, shall convey the body of such person or persons into the Common Gaol of the District and jurisdiction wherein such person or persons shall be arrested.

Warrant against the body.

XII. And be it enacted, That the said Master, Deputy Master and Wardens, or any three of them sitting in their judicial capacity, shall have such and the like power and authority to preserve order in their Court during the holding thereof, and by the like ways and means as now by law are or may be exercised and used in the like case, and for the like purpose, or by any Courts of Justice in this Province, or by the Judges thereof respectively, during the sitting thereof.

Power to preserve order in Court.

XIII. And be it enacted, That it shall be lawful for the said Corporation of the Trinity House of Montreal, to tax and allow to each and every person duly summoned and appearing before them as a witness, upon any complaint or information, his reasonable expenses in giving his attendance, and also such compensation for loss of time as in their discretion they shall think fit, and the circumstances of the case may seem to them to require, and that every sum so taxed and allowed, shall enter into and form part of the costs which the losing party in each case shall be condemned to pay; and that if any person who shall be duly summoned as a witness upon any complaint or information before the said Corporation of the Trinity House of Montreal shall refuse or neglect to appear at the time by such Summons appointed, having no just cause for such neglect or refusal, it shall be lawful for the said Corporation of the Trinity House of Montreal, on proof of such Summons having been served, to issue a Warrant under the Seal of the said Corporation, to bring such person before them; and if on his appearance, or on being brought before the said Corporation of the Trinity House of Montreal, such person shall refuse to be examined on oath concerning the premises, without having some just cause for such refusal, it shall be lawful for the said Corporation, by Warrant under their Seal, to commit such person to the Common Gaol of the District of Montreal, or of any other District in this Province where such person shall be apprehended, there to remain for any time not exceeding three months, as the said Corporation shall direct.

Power to commit witnesses refusing to attend.

XIV. And be it enacted, That no person shall hereafter be appointed and commissioned as a Pilot for and above the Harbour of Quebec, until he shall have been examined in the presence of such Branch Pilots as may have been summoned for that purpose by the Master, Deputy Master and Wardens, or any three of them (and who shall propose questions,) and shall have obtained a certificate from the said Master, Deputy Master and Wardens of the said Trinity House of Montreal, or any three of them, of whom the Master or Deputy Master shall be one, under their hands, and the hand of the Registrar and the Seal of the said Corporation, of his having been so examined, and being found in all things duly qualified to serve as a Branch Pilot for and above the Harbour of Quebec: Provided always, that every Pilot who now holds a Branch shall continue to hold the same, unless he shall by some offence committed after the passing of this Act, and after conviction thereof, have forfeited such Branch.

Appointment of Pilots, and their qualification.

Proviso.

XV. And be it enacted, That from and after the passing of this Act, no person shall be permitted to undergo an examination to obtain a License and to act as Pilot for and above the Harbour of Quebec, unless he shall have been constantly employed during five years in the river navigation between Quebec and Montreal, during which period he shall have been employed three years in sailing vessels, and shall be able to speak the English and French Languages, to work a ship if required, and to be well acquainted with both shores of the River St. Lawrence between Quebec and Montreal, and shall prove the same in a satisfactory manner by certificate from two or more persons,

Examination of Pilots.

which

which certificate shall be duly attested by the oath of the persons giving the same, if required by the Corporation of the Trinity House of Montreal, or by any of the persons present at such examination.

Pilots sus-
pended until
payment of
fines and costs
in certain
cases.

XVI. And be it enacted, That when and as often as any pecuniary penalty incurred by any Branch Pilot for and above the Harbour of Quebec, under the provisions of this Act, shall have remained unpaid for the space of three months after the conviction of such Pilot for the offence to which such penalty is attached, such Pilot shall, from and after the expiration of the said period of three months, be and remain suspended from the exercise of his functions as a Pilot, until the said penalty and the costs awarded on such conviction shall have been fully paid: Provided always, that it shall be lawful for the said Corporation to insert in any such conviction the penalty of such suspension as aforesaid, in case such pecuniary penalty shall not be paid within a certain period to be therein mentioned, which period shall in no case exceed three months nor be less than one.

Proviso.

Dismissal and
re-instatement
of Pilots.

XVII. And be it enacted, That in case of the loss of any ship, steamer or other vessel, or of damages done to the same, through the fault of any Branch Pilot for and above the Harbour of Quebec having charge of the same, it shall and may be lawful to and for the said Master, Deputy Master and Wardens of the Trinity House of Montreal, or any three or more of them, upon complaint or information of the Master or Owner of such ship, steamer or other vessel, or other person whomsoever, to declare that such Pilot has forfeited his Branch, and such Pilot shall be deprived of his Branch accordingly: Provided always, that any such Branch Pilot who hereafter or already, may have forfeited and been deprived of his Branch, by reason of the loss of any ship, steamer or other vessel, or for any other cause whatsoever, shall and may at any time hereafter, on application of such Pilot, be by the said Master, Deputy Master and Wardens, if they shall deem it expedient so to do, reinstated under a new Branch, such Pilot being previous to his rehabilitation, examined by the said Master, Deputy Master and Wardens of the Trinity House of Montreal, and by them approved, as to his fitness and capacity.

Proviso.

Annual list of
Branch Pilots
to be publish-
ed.

XVIII. And be it enacted, That a list of the Branch Pilots for and above the Harbour of Quebec, specifying their names, ages and places of residence, shall annually be delivered in the month of March, in each and every year, signed by the Master or Deputy Master, and by one or more of the said Wardens, and by the Registrar of the said Trinity House of Montreal, to the Corporation of the Trinity House of Quebec, to the Collector of the Customs at Quebec, and to the Collector of the Customs at Montreal, which lists the said Collectors respectively shall put up in some public place in the Custom House, in each of the said Cities.

Penalty on
Pilots declin-
ing duty or
quitting ships.

XIX. And be it enacted, That every Branch Pilot for and above the Harbour of Quebec, who shall when not actually engaged in his capacity of Pilot, refuse or decline to take charge of any ship, steamer or other vessel in Her Majesty's service, wanting a Pilot, and within the limits specified in his Branch, upon being required so to do by the Captain or by any Officer of or belonging to such ship, steamer or other vessel, or of any ship, steamer or other vessel not in Her Majesty's service wanting such Pilot, and within the limits as aforesaid, upon being required by the Master or other person having the command of such ship, steamer or other vessel, or upon being required so

to

to do in either of the cases aforesaid by any Member or Officer of the said Corporation of the Trinity House of Montreal, unless (in any of the cases aforesaid) it shall be unsafe for such Branch Pilot to comply with such requisition, or he shall be prevented from so doing by illness or other sufficient cause to be shewn by him in that behalf; and every Branch Pilot for and above the Harbour of Quebec, who shall, without just and sufficient cause, quit any ship, steamer or other vessel, or decline the piloting thereof, after he has been engaged to pilot the same, before the service shall have been performed for which he was hired, and without leave of the Captain, Master, or other person as aforesaid, shall forfeit for every such offence, any sum not exceeding ten pounds currency, and shall be liable to be dismissed from being a Branch Pilot, or suspended from acting as such, at the discretion of the said Corporation of the Trinity House of Montreal.

XX. And be it enacted, That whenever any Branch Pilot for the, and above the Harbour of Quebec shall have been duly and lawfully convicted under the authority of this Act, of want of due care and diligence, or of incapacity in conducting any ship, steamer or other vessel, it shall be lawful for the said Master, Deputy Master and Wardens of the Trinity House of Montreal, to adjudge that such Branch Pilot shall, in addition to any fine or penalty which he may be condemned to pay, or any other punishment which may be imposed upon him in consequence of such conviction, forfeit and lose any sum of money which he would otherwise be entitled to, have and receive for piloting such ship, steamer or other vessel on that occasion; and if such sum of money, or any part thereof, shall have been already paid to such Branch Pilot, he shall on such conviction as aforesaid, refund such sum of money as he may have so received to the person from whom he received the same.

Pilot convicted of negligence may be condemned to forfeit Pilot money.

XXI. And be it enacted, That if any person not being a Branch Pilot as aforesaid, shall conduct or pilot any ship or vessel, not being a river craft, steamer, barge or lighter, engaged in the navigation between Quebec and Montreal only, for hire or otherwise, on the River St. Lawrence, between the Basin of Portneuf aforesaid, and the Harbour of Montreal, such person shall for every such offence, forfeit and pay the sum of five pounds currency, to be recovered, with costs, by any person who shall sue for the same before the said Master, Deputy Master and Wardens of the said Trinity House, or any three of them, which forfeiture or forfeitures shall go to the Master, Deputy Master and Wardens of the said Trinity House, and be applied in the manner hereinafter directed; and if any Branch Pilot, during such time as he shall be suspended and deprived of his Branch under and by virtue of this Act, shall conduct or pilot any ship or other vessel, for hire or otherwise, within the said limits, such Pilot shall, for every such offence, forfeit and pay a sum not exceeding five pounds currency, to be recovered with costs, by any person who shall sue for the same, in manner as aforesaid, which said forfeiture shall go to the Master, Deputy Master and Wardens of the said Trinity House of Montreal, and be applied in the manner hereinafter directed; Provided always, that the Master of any ship or vessel, not being such river craft, steamer, barge or lighter, shall be liable to a like penalty, to be imposed, forfeited, levied, and applied in the manner hereinbefore mentioned, for hiring, engaging or employing any person not being a Branch Pilot, and for not requiring to exhibit his Branch to him before such hiring or engagement.

Penalty on persons not being Branch Pilots acting as such.

Penalty on suspended Pilots for piloting.

Proviso.

XXII. And be it enacted, That if any Branch Pilot, having the charge or direction of any ship, steamer or other vessel, in the Harbour of Montreal, shall neglect or refuse

Pilots to obey the Captain of the Port.
to

to obey such orders or directions as shall or may from time to time be given to such Branch Pilot, by the Captain of the Port of Montreal, (under and by virtue of and agreeably to the powers vested in him by this Act, or by any By-law of the said Corporation of the Trinity House of Montreal,) touching or relating to the mooring, unmooring, moving or removing of such ship, steamer or other vessel, so being under the charge or direction of such Branch Pilot as aforesaid, then and in such case every such Branch Pilot so offending, shall forfeit and pay a sum not exceeding ten pounds currency, and every such Branch Pilot shall be liable to be dismissed from being a Pilot, or suspended from acting as such, at the discretion of the said Corporation or of any other authority from whom he may have received his Branch.

Rates of pilotage to be those set forth in the Schedule to this Act.

XXIII. And be it enacted, That from and after the passing of this Act, the Pilots may demand for the pilotage of any vessel between Quebec and Montreal, the rates following, that is to say: from the Harbour of Quebec to Portneuf, on the north side of the River St. Lawrence and the opposite side of the said river, or to any other place above the Harbour of Quebec and below Portneuf, for a vessel not exceeding two hundred tons measurement by register thereof, upwards four pounds, and downwards two pounds ten shillings; if above two hundred tons and not exceeding two hundred and fifty tons, upwards five pounds, and downwards three pounds ten shillings; and if above two hundred and fifty tons, upwards six pounds and downwards four pounds:—from the Harbour of Quebec to the Town of Three-Rivers, and the opposite side of the said River St. Lawrence, or any other place above Portneuf and below the said Town of Three-Rivers, for a vessel not exceeding two hundred tons measurement by register thereof, upwards six pounds, and downwards four pounds; and if above two hundred tons and not exceeding two hundred and fifty tons, upwards seven pounds and downwards four pounds ten shillings, and if above two hundred and fifty tons, upwards eight pounds and downwards five pounds ten shillings:—from the Harbour of Quebec to the Harbour of Montreal, or to any other place above the Town of Three-Rivers and below the Harbour of Montreal, for a vessel not exceeding two hundred tons measurement, by register thereof, upwards eleven pounds, and downwards seven pounds ten shillings; if above two hundred tons and not exceeding two hundred and fifty tons, upwards thirteen pounds, and downwards eight pounds fifteen shillings; and if above two hundred and fifty tons, upwards sixteen pounds, and downwards ten pounds fifteen shillings: Provided always, that whenever the vessel shall be towed by a steamer, the Pilot shall be entitled to one half only of the above rates, and no greater rates or reward, or emolument for such pilotage shall, under any pretence whatever, be demanded, solicited, received, paid or offered, on pain of forfeiting not exceeding ten pounds currency, for every such offence, as well by the person demanding, soliciting or receiving, as by the person paying or offering such greater rates, rewards or emolument.

Proviso.

Penalty.

Montreal Decayed Pilots' Fund continued, &c.

XXIV. And be it enacted, That the Montreal Decayed Pilots' Fund, and all and every the sums of money composing and forming part of the same at the time of the passing of this Act, or which shall hereafter be contributed to or form part of the same under the provisions of this Act, shall be and shall continue to be vested in the said Master, Deputy Master and Wardens of the Trinity House of Montreal, for the purpose of relieving Pilots for and above the Harbour of Quebec, and the widows and children of such Pilots who may have fallen or may fall into decay, misery, poverty and need, and shall be and shall continue to be under the management of the said Master, Deputy Master and Wardens of the Trinity House of Montreal, who are hereby authorized and

and required to grant such relief out of the same, to such distressed and decayed Pilots, and the widows and children of such Pilots, as the said Master, Deputy Master and Wardens of the Trinity House of Montreal, or a majority thereof, may deem just and proper; and the moneys which at the end of each year shall not be distributed for the said purpose, shall be vested in public debentures, or other securities bearing interest upon immoveable property, according to the best of the judgment of the said Master, Deputy Master and Wardens of the Trinity House of Montreal, or a majority thereof, and an account of the state of the said fund shall annually be laid before the Governor of this Province.

XXV. And whereas it is necessary to provide for the maintenance of the Montreal Decayed Pilot Fund—Be it enacted, That every person who at present is or who shall hereafter become a Licensed or Branch Pilot for and above the Harbour of Quebec, shall contribute to the said Fund one shilling in the pound out of every sum of money which after the passing of this Act he shall be entitled to receive for Pilotage, which said contributions shall be levied and recovered in the manner hereinafter mentioned.

Contribution
of Pilots.

XXVI. And be it enacted, That the Master or Commander of every ship, steamer or other vessel (not belonging to Her Majesty) is hereby authorized and required to stop and retain one shilling in the pound out of every sum of money accruing and payable to any Branch Pilot for and above the Harbour of Quebec for the pilotage of the ship, steamer or other vessel by him commanded, as well on the passage inwards as on the passage from Montreal outwards, and for moving the same within the Harbour of Montreal, and every poundage so required to be stopped and retained shall, by every Master or Commander be paid as hereinafter directed and provided for, before the ship, steamer or other vessel by him commanded shall be cleared outwards: Provided always, that a sum of money equal to one shilling in the pound out of every sum of money received or to be received hereafter by each and every Pilot for and above the Harbour of Quebec, for the pilotage of ships, steamers or other vessels belonging to Her Majesty or any foreign power, shall be paid and be payable by such Pilot to the Treasurer of the said Corporation, and shall be paid on or before the first day of July, and on or before the first day of January in every year; and the said Master, Deputy Master or some of the Wardens are hereby authorized and required, when any doubt shall arise as to the amount of such pilotage received by a Pilot, to administer to him an oath to ascertain the amount; and if any such Pilot liable to contribute to such Fund in manner last aforesaid, shall neglect to pay to the Treasurer of the Corporation the said poundage on the pilotage by him so received, for the three months following the periods aforesaid, every such Pilot so neglecting, upon conviction thereof before any three Wardens, shall forfeit and pay for the use of the said Fund a sum not exceeding ten pounds currency; and upon a second conviction for a like offence, shall be suspended during three months; and if a third time convicted of a like offence, shall forfeit his Branch as a Pilot, and be rendered incapable of afterwards receiving, or his widow or children, any benefit or assistance from the said Fund.

Masters of
Ships not be-
longing to Her
Majesty, re-
tain Poundage.

Pilots to pay
Poundage on
Pilotage of H.
M. ships to
the Treasurer
of the Corpo-
ration.

XXVII. And be it enacted, That from and after the passing of this Act it shall be lawful for the Collector of Her Majesty's Customs for the Port of Montreal, and he is hereby authorized and required to ask, demand and receive from the Master or Commander of every ship, steamer or other vessel departing from the Port of Montreal to any port or place without the eastern limits of this Province, including hired ships and

Collector of H.
M. Customs to
collect contri-
butions from
vessels not be-
longing to Her
Majesty.

transports

transports in Her Majesty's service, a sum of one shilling in the pound out of every sum of money accrued or accruing and payable by the said Master or Commander to any Pilot for the pilotage thereof for and above the Harbour of Quebec, as well on the passage inwards of such ship, steamer or other vessel, as on her passage from Montreal outwards, as also for moving the said ship, steamer or other vessel within the Harbour of Montreal, as the case may be.

Annual Statement to be published.

XXVIII. And be it enacted, That the said Master, Deputy Master and Wardens of the Trinity House of Montreal shall publish annually or cause to be published in a Gazette or newspaper published by authority in the City of Montreal, in the month of January, a full and complete statement of the funds belonging to or in any wise appertaining to the Pilots for and above the Harbour of Quebec and known as the Montreal Decayed Pilots' Fund, with the names of all persons receiving pensions or allowances of any kind from and out of the said funds, and shall furnish a printed copy of such statement, at the expense of the funds aforesaid, to every Pilot or person applying for the same residing in this Province, directly contributing to the said Fund and therein immediately interested.

Fines and Penalties paid to Treasurer.

XXIX. And be it enacted, That all fines and penalties under this Act, recovered from Branch Pilots for and above the Harbour of Quebec, shall be paid to the Treasurer of the said Corporation of the said Trinity House of Montreal, and compose a part of the said Decayed Pilots' Fund, and by the said Corporation shall be applied to the purposes of the said Fund, as by this Act are authorized and directed, and no other.

Service of Trinity Process on Pilots.

XXX. And be it enacted, That in all cases where it shall be necessary to serve a Summons upon any Branch Pilot for and above the Harbour of Quebec, for any offence against this Act, or against any By-Laws, Rules, Regulations or Orders, made and constituted by the said Master, Deputy Master and Wardens of the Trinity House of Montreal, the service of such Summons, if the party offending is not to be found, shall be deemed a legal service if a copy of such Summons is left by the Bailiff of the said Corporation at the domicile of the said Pilot, if residing in the City of Montreal, or at the usual stopping place of such Pilot when in the said City, with a person or persons residing at such stopping place or house.

Office and duty of the Captain of the Port.

XXXI. And be it enacted, That the offices of Captain of the Port of Montreal and Harbour Master of Montreal, shall be held by one and the same person, who shall be called Captain of the Port of Montreal; and it shall be the duty of the said Captain of the Port of Montreal to superintend and enforce the execution of this Act, or any other Act which shall relate to the Port and Harbour of Montreal, as also all and every the By-laws, Rules, Orders and Regulations continued by this Act, or which may hereafter be enacted by the said Master, Deputy Master and Wardens of the Trinity House of Montreal, by virtue of this Act, for the amendment and improvement of the Harbour of Montreal, for the anchoring, riding and fastening of all ships, steamers or other vessels, rafts or cribs resorting to the said Harbour of Montreal, and for the better regulating and ordering the same, while lying in the stream or at any wharf in the said Harbour of Montreal; and it shall likewise be the duty of the said Captain of the Port of Montreal to enquire into and ascertain whether any and what encroachments or nuisances may be made or may exist upon the rivers, streams, waters and

and beaches within the Port and Harbour of Montreal, and which may be injurious to the navigation, or may obstruct the due and lawful use thereof by the public, and to make from time to time to the said Corporation of the Trinity House of Montreal, a report of all such encroachments and nuisances which may be found to be made or to exist as aforesaid, as soon after the same shall have come to his knowledge as he conveniently can, and thereupon the said Corporation shall cause such legal proceedings to be taken as may be necessary to abate such nuisances and to restrain and do away with such encroachments and obstructions; and it shall likewise be the duty of the said Captain of the Port of Montreal to superintend the Pilots for and above the Harbour of Quebec, and also to superintend the lights, light-vessels, and floating lights, light-houses, beacons, or land-marks, the laying-down and taking up of Buoys, within the limits of the said Port of Montreal; and it shall further be the duty of the said Captain of the Port of Montreal, to make an abstract of all the Laws, By-Laws and Regulations concerning Pilots and the navigation of the River Saint Lawrence and other waters within the limits of the Port of Montreal, or expressive of the duties of Masters of vessels in the Harbour of Montreal, and to cause a copy of the same, printed or written, signed by him, to be affixed and continued and renewed as often as the same shall be obliterated and defaced, at the Custom House and at the Trinity House at Montreal respectively, and also to deliver, without fee or reward, a copy of the same to every Master or Commander of a ship, steamer or other vessel, who shall make application for the same at his office in the City of Montreal; and the Captain of the Port of Montreal, before entering upon the duties of his office, shall take and subscribe an oath before one of the Judges of the Court of Queen's Bench for the District of Montreal, in the following words, that is to say:

Captain of the Port to take an oath of office.

“ I, A. B., do swear, that I will truly and impartially, to the best of my skill and understanding, execute the powers vested in me by a Law of this Province, intituled, *An Act to repeal a certain Act and an Ordinance therein mentioned, relating to the Trinity House of Montreal, and to amend and consolidate the provisions thereof.*”

Which oath so taken and subscribed, shall be filed of record, and remain in the office of the Prothonotary of the said Court of Queen's Bench.

XXXII. And whereas it may be deemed necessary and expedient for the more safe, convenient and easy navigation of the River Saint Lawrence, and other rivers within the jurisdiction of the Trinity House of Montreal, that certain islands, lands and premises, pieces and parcels of land, trees and buildings, required for land-marks within the said jurisdiction, should be purchased and vested in the said Corporation of the said Trinity House, for the purpose of erecting a suitable and convenient house in the City of Montreal for the use of the said Corporation, and for erecting light-houses, beacons and land-marks: Be it enacted, That the said Corporation, at any time or times hereafter, may, and they are hereby authorized and empowered to contract, compound, compromise and agree with the proprietors and occupiers of the said islands, lands and premises, pieces and parcels of land, trees and buildings, or any part of them, for the purchase of them; and it shall be lawful for all persons whomsoever, bodies politic and corporate, guardians, curators, fiduciary legatees and trustees whatsoever, for themselves, their heirs and successors, for and in behalf of those whom they represent or for whom they act, whether infants, lunatics, idiots, *femes-covert*, or other person or persons whomsoever who are or shall be seized of or possessed of or entitled to such islands,

Trinity House may purchase lands, &c.—Parties empowered to convey the same.

islands, lands and premises, pieces and parcels of land, trees and buildings as aforesaid, to contract for, sell and convey the same to the said Corporation of the said Trinity House of Montreal, for such price and prices or consideration as may be agreed upon between them and the said parties respectively.

In cases where owners of lands to be acquired cannot agree with Corporation, reference to be had to arbitration.

XXXIII. And be it enacted, That in all cases where the said Corporation, and the said owners and occupiers of the lands and real property aforesaid, or of any part thereof, shall not by voluntary agreement, settle and determine the price and prices to be paid for the same or any part thereof, such price or prices shall be ascertained, fixed and determined by the award of Arbitrators in the manner following, that is to say: the said Corporation shall and may nominate and appoint one Arbitrator, being an indifferent and disinterested person, and the said owners and occupiers respectively, shall and may nominate and appoint one other Arbitrator, being also an indifferent and disinterested person, and the said two Arbitrators, before proceeding to act as such Arbitrators, shall and may appoint a third Arbitrator, being also an indifferent and disinterested person, which said three Arbitrators, after having been previously sworn before one of the Justices of the Court of Queen's Bench for the District of Montreal, well, truly and honestly to execute the trust and duty of Arbitrators as aforesaid, and, after notices to the parties respectively, of the time and place of their meeting, shall proceed to ascertain, fix and determine the price or prices to be paid by the said Corporation for such islands, lands and premises, pieces and parcels of land, trees and buildings aforesaid, or any part thereof; and the award of any two of the said Arbitrators to be named and appointed as aforesaid, in and respecting the premises aforesaid, shall be final.

When the owner shall refuse or neglect to appoint Arbitrators.

XXXIV. And be it enacted, That in case the said owner or occupier of the said islands, lands and premises, pieces and parcels of land, trees and buildings, or any of them, after due notice in this behalf from the said Corporation, shall refuse or neglect to name and appoint an Arbitrator as aforesaid, being an indifferent and disinterested person as aforesaid, or if the two Arbitrators named and appointed as aforesaid shall refuse or neglect to name and appoint a third Arbitrator as aforesaid, it shall be lawful in such cases respectively for one of the Justices of the Court of Queen's Bench for the District of Montreal, on application in this behalf by the said Corporation, to name and appoint, instead of such owner or occupier so refusing or neglecting, an Arbitrator on his behalf, or such third Arbitrator, to supply the place of the nomination which ought to have been made by the two Arbitrators previously appointed; and the Arbitrators and third Arbitrator as aforesaid to be appointed by such Justice as aforesaid, after having been respectively sworn by such Justice, well, truly and honestly to execute the trust and duty of Arbitrators and third Arbitrator as aforesaid, shall have the same power and authority in the premises, and their award shall have the same force and effect as if such Arbitrators and third Arbitrator had been named in the manner in the preceding section described as aforesaid.

On payment or refusal of price, lands to be vested in Corporation.

XXXV. And be it enacted, That on payment of the price or prices to be fixed and determined as aforesaid, or in case of refusal or neglect to accept the same, on the deposit thereof in the hands of the Prothonotary of the said Court of Queen's Bench for the District of Montreal, for the use of the person or persons entitled to the same, the right of property, title and interest in and to such island or islands, lands and premises, pieces or parcels of land, trees or buildings for which such price or prices shall

shall be payable, shall be divested out of the owners and occupiers thereof, and the same shall become and be vested in the said Corporation for the purposes aforesaid.

XXXVI. And be it enacted, That such price and prices as aforesaid, to be agreed upon, fixed and determined as aforesaid, may be paid from and out of the sum and sums of money appropriated for the purposes of this Act, but no such price or prices shall be agreed for or paid by the said Corporation for a site for the purpose of erecting and for erecting a suitable house for the said Corporation, without the sanction and approval of the Governor, Lieutenant-Governor or Person administering the Government.

No purchase to be paid for but by the sanction of the Governor.

XXXVII. And be it enacted, That any person wilfully removing or destroying, or maliciously procuring to be removed or destroyed, any buoy, floating light, beacon or landmark placed for the purpose of navigation, in the river or on the shores of the River St. Lawrence, or on other rivers and shores within the jurisdiction of the Trinity House of Montreal, (Lake St. Peter inclusive,) every such person, for every such offence, upon conviction by one competent witness before the Trinity House of Montreal, shall forfeit and pay a penalty not exceeding one hundred pounds currency, with costs of suit, and be committed to the Common Gaol of the District of Montreal, for a time not exceeding twelve calendar months, by a Warrant under the Hand of the Master, Deputy Master, and Wardens, or any three of them of whom the Master or Deputy Master shall be one, and of the Registrar and the Seal of the Corporation; and that if any floating-light, light-house, buoy, beacon or other mark, placed or to be placed in any part of the said Port of Montreal, or on the land within the jurisdiction, and under the authority of the Corporation, shall be by accident or otherwise, removed, carried away or destroyed, by any vessel or raft, or by any vehicle whatsoever, the Master or person in charge of such vessel, raft, or vehicle, shall within forty-eight hours replace the same at his proper cost and charges, and shall incur a penalty not exceeding twenty pounds currency.

Punishment for destroying Buoys or Beacons.

Lights, Buoys, &c. removed or destroyed by any vessel, &c. to be replaced.

XXXVIII. And be it enacted, That the Governor of this Province, in Council, shall determine what Officers and persons it shall be necessary to employ in carrying into effect the provisions of this Act, and grant to such Officers or persons, such salaries or pay for their labor and responsibility in performing their respective duties, as shall be deemed reasonable and proper in lieu of all fees and charges upon moneys, received by them; and the said Officers and persons shall give such security for the due performance of the duties of their respective offices, as the Governor in Council shall from time to time direct.

Governor to determine what officers shall be employed, and their salaries.

XXXIX. And be it enacted, That it shall be lawful for the Registrar and Treasurer, of the Trinity House of Montreal, and for the Captain of the Port and Harbour Master of Montreal, appointed under the authority of this Act, by an Instrument in writing under their Hands and Seals, by and with the approval of the Master, Deputy Master and Wardens of the said Trinity House, to appoint each some fit and proper person, to be their Deputy, and in case of the illness or necessary absence of the said Registrar and Treasurer, or Captain of the Port and Harbour Master, such Deputy shall be vested with, and may exercise all and every the powers and authorities which are by Law vested in the said Registrar and Treasurer, or Captain of the Port and Harbour Master.

Registrar and Treasurer and Captain of the Port may appoint Deputies.

Tonnage duty imposed on ships, or other vessels from the sea, entering or departing from the Port of Montreal.

To whom to be paid.

No Clearance until Dues are paid.

Proviso.

Penalty on Masters, &c., leaving the Port without paying Dues.

Steamers and registered river craft subject to rules and regulations.

Tonnage Duty on them.

Pilots, if branched, piloting steamers &c. to contribute to the Pilots' Fund.

XI. And be it enacted, That from and after the passing of this Act, it shall be lawful for the Collector of Her Majesty's Customs in the Port of Montreal, and he is hereby authorized and required to ask, demand and receive from the Master or Commander of every ship, steamer or other vessel, entering the Port of Montreal, from any Port or place without the Eastern limits of this Province, including hired ships or transports, in Her Majesty's service, and passing any light, buoy or beacon, placed under the control of the Trinity House of Montreal, the sum of one penny halfpenny current money of this Province, per ton, for every ton of the burden of such ship, steamer or other vessel, according to the admeasurement thereof; and the like sum of one penny halfpenny, money aforesaid, for every ton of the burden of every ship, steamer or other vessel aforesaid, departing from the Port of Montreal, for any Port or place without the Eastern limits of the Province, and passing any light, buoy or beacon, placed under the control of the Trinity House of Montreal; and it shall not be lawful for the Collector of the Port of Montreal or the Collector of the Port of Quebec, or any other Officer of Her Majesty's Customs, to grant to any such ship, steamer or other vessel, a Clearance outwards, unless and until the Master or Commander of such ship, steamer or other vessel, shall have paid unto the said Collector of the Port of Montreal, as well the said Tonnage Duties as the Poundage of the Montreal Decayed Pilots' Fund, payable to him under and by virtue of this Act; And provided also, that if any Master or Commander of any hired ship or transport, in Her Majesty's service, or of any other ship, steamer or other vessel as aforesaid, not requiring a Clearance, shall leave the Port of Montreal, on such voyage aforesaid, without having first duly paid to the Collector of Her Majesty's Customs at the Port of Montreal, as well the amount of the Tonnage Duties aforesaid, as the Poundage aforesaid, payable by such Master or Commander to the said Collector under the provisions of this Act, every such Master or Commander, shall for every such offence forfeit and pay not exceeding the sum of twenty pounds current money of this Province.

XLI. And be it enacted, That from and after the passing of this Act, all steamers, barges, and registered river craft, (other than ferry boats) or vessels, navigating the River St. Lawrence, between Quebec and Montreal, within the limits of the Port of Montreal, or any of the waters within the said limits, or any part thereof, shall, whilst within the said limits, be subject to the Rules and Regulations of the Trinity House of Montreal; and there shall be paid by the owner or owners thereof, the Agent, Master, or person in charge of any such steamer, barge, or registered river craft, for each and every voyage or trip which each and every such steamer, barge or registered river craft, shall perform from Quebec to Montreal or from Montreal to Quebec, or to or from any Port or place below the Town of Three-Rivers, and passing any light, buoy or beacon, placed under the control of the Trinity House of Montreal, a Tonnage Duty of one penny halfpenny, and for each such voyage or trip, to or from Montreal, to the Town of Three-Rivers, or any intermediate Port or place between the said Town and William Henry, a Tonnage Duty of one penny, and for each such voyage and trip to or from Montreal, to any Port or place on the River Richelieu, or between William Henry and Montreal, a Tonnage Duty of one halfpenny current money of this Province, for every ton of the burthen of such steamer, barge or registered river craft, according to the admeasurement thereof; and the Pilots, or persons, if branched or licensed, having charge of or piloting such steamers, barges or river craft, shall also respectively be liable for and contribute towards the Montreal Decayed Pilots' Fund, one shilling in the pound, upon the wages or hire they may respectively be entitled to have and receive for their service in such steamer,

steamer, barge, or registered river craft; all which duties hereby imposed shall be raised, levied upon and collected from the owner or owners thereof, the Agent, Master or person in charge thereof, by the Master, Deputy Master and Wardens of the Trinity House of Montreal, or the Registrar and Treasurer thereof.

XLII. And whereas, in the case of ships, steamers or other vessels or registered river craft, navigating or towing within the limits of the Port of Montreal, and not entering the Harbour of Montreal, the Master, Deputy Master and Wardens of the Trinity House of Montreal, or the Treasurer and Registrar thereof, may be unable to collect the dues payable on them, under this Act—Be it therefore enacted, That the owner, agent, master or person in charge of every such ship, steamer, vessel or registered river craft, shall, within forty-eight hours after the return of the said ship, steamer, vessel or registered river craft, to the Port of Quebec from the Port of Montreal, on each voyage or trip, pay or cause to be paid to the Collector of Her Majesty's Customs of the Port of Quebec, the amount of such Dues; and in default of such payment within forty-eight hours after the return of such ship, steamer, vessel or registered river craft, the said owner, agent, master or person in charge thereof, shall pay a penalty not exceeding twenty pounds, current money of this Province; and the said Collector shall pay the amount of money so collected unto the Treasurer of the Trinity House of Montreal, in the manner directed in the forty-fifth section of this Act.

Vessels not entering the Harbour of Montreal to pay Collector at Quebec.

Penalty for not paying.

XLIII. And be it enacted, That all moneys that shall be levied and raised under and by authority of this Act, (excepting the Poundage for the Montreal Decayed Pilot Fund,) shall be applied to the improvement of the navigation of the River St. Lawrence, and other waters within the limits of the Port of Montreal and for the other purposes and requirements of this Act under and by authority of the Corporation of the Trinity House of Montreal: and the said Corporation shall at all times render such accounts to such officer or person, and in such manner and form, and in such time as the Governor shall direct, and an account in detail of all moneys received and expended by the said Corporation, and of all matters connected with the said receipt and expenditure, shall be laid before each Branch of the Legislature, within fifteen days after the opening of each Session of the Provincial Parliament.

How all moneys collected are to be employed.

Corporation to account annually to the Legislature.

XLIV. And be it enacted, That the Collectors of Her Majesty's Customs at the Port of Montreal and the Port of Quebec, shall respectively make monthly returns to the Treasurer of the Corporation of the Trinity House of Montreal, of all collections made by them on account of the said Corporation for the uses thereof, or on account of the Decayed Pilots' Fund of the said Corporation; and the said monthly returns shall be in detail, specifying the date of each collection, the name and tonnage of each ship, steamer or other vessel, and the name of the commander or master thereof.

Collectors to make monthly Returns of Collections:

XLV. And be it enacted, That all the moneys collected by and payable to the Collectors of Her Majesty's Customs at the Port of Montreal or the Port of Quebec, under and by authority of this Act, shall be paid by them monthly into the hands of the Treasurer of the Trinity House of Montreal, to be applied in the manner and for the purposes described and directed in the provisions of this Act.

Moneys to be paid over monthly, and how to be applied.

XLVI. And be it enacted, That all moneys or duties to be collected under and by authority of this Act, shall or may be recovered from the owner, agent, master, commander or person in charge of any ship, steamer or other vessel subject thereto, by the Collectors of Her Majesty's Customs at the Port of Montreal or the Port of Quebec,

How moneys may be recovered.

or

or by the Master, Deputy Master and Wardens of the Trinity House of Montreal, (as the case may be,) in any manner by which duties are by law recoverable, and they may respectively seize any such ship, steamer, or vessel, or any article or thing thereunto belonging, and detain it or them at the risk, cost and charges of the owner, master or person in charge of any such vessel as aforesaid, until the sum due, and the costs and charges incurred in and about such seizure shall be paid in full.

Vessels may be seized, or any article on board.

Corporation not to contract, &c. with any Member thereof.

XLVII. And be it enacted, That it shall not be lawful for the Corporation of the Trinity House of Montreal, to have any transactions of a pecuniary nature, or in buying or selling with any Member or Members thereof, directly or indirectly.

Members, &c. exempt from serving as Jurors.

XLVIII. And be it enacted, That the Members and Officers of the said Trinity House of Montreal shall be exempt from serving on any Juries or Inquests whatsoever, or as Assessors or Constables.

Fines to be paid to Corporation.

XLIX. And be it enacted, That all the fines and penalties recovered under this Act (excepting fines and penalties recovered from Branch Pilots) shall be paid to the Corporation of the Trinity House of Montreal, and shall be employed by the said Corporation for the improvement of the Navigation of the River St. Lawrence within the limits of the Port of Montreal and the general purposes of the Corporation, and all such moneys shall be accounted for in the same manner as other moneys at the disposal of the said Corporation.

Application thereof.

L. And be it enacted, That nothing herein contained shall extend or be construed to extend to affect the rights of Her Majesty, Her Heirs and Successors.

Rights of Her Majesty saved

Public Act.

LI. And be it enacted, That this Act shall be deemed and taken to be a Public Act.

Limitation of prosecutions.

LII. And be it enacted, That all prosecutions for offences against this Act shall be brought within twelve months after the Commission thereof, and not after.

SCHEDULE.

Form of License.

This is to certify that
 Commander, *as the case may be*) of the _____ Owner (*or Master or*
 hath paid into the hands of the Treasurer of the Trinity House of Montreal, the sum called the
 of _____ being at the rate of _____ per foot of the
 measurement of the said _____ from the after-part of the stem to the
 fore-part of the stern post, aloft, and the said _____ the
 is hereby licensed to navigate the River Saint Lawrence within the limits of the Port
 of Montreal, and pass the Lights erected by the said Corporation for the better navigation thereof, during the period of navigation of the year one thousand eight hundred
 and _____

Given at the City of Montreal, under the Hand of _____
 Master (*or Deputy Master, as the case may be*) of the Trinity House of Montreal, and
 the Seal of the said Corporation hereunto affixed, this _____ day of _____
 in the year of Our Lord _____, and in the
 year of Her Majesty's Reign.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CXVIII.

An Act to continue a certain Act therein mentioned relative to the Public Health of the City of Montreal.

[30th May, 1849.]

WHEREAS it is expedient to continue for a limited time the Act hereinafter mentioned : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the Act passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, and intituled, *An Act to enlarge the powers of the Trinity House of Montreal in certain cases where the Public Health of the City may be endangered*, shall be, and the said Act is hereby continued and shall remain in force until the first day of January, one thousand eight hundred and fifty, and thence until the end of the then next Session of the Provincial Parliament.

Preamble.

Act 10 and 11
Vict c. 1,
continued.

MONTREAL : Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.





ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CXIX.

An Act to authorize the Montreal Harbour Commissioners to commute for certain Harbour Dues, with the Corporations therein mentioned, and for other purposes.

[30th May, 1849.]

WHEREAS it is expedient for the facility of trade and business in the Harbour of Montreal, and promotion of the communications in connection therewith, as carried on by means of the steamers plying between Laprairie and Montreal, and between Longueuil and Montreal, respectively belonging to or employed by the respective Corporations hereinafter mentioned, to dispense with the Tariff or Table of Charges, Duties or Harbour Dues established by the Act of the tenth and eleventh years of Her Majesty's Reign, Chapter fifty-six, in so far as the same may affect the steamers appertaining to the said Corporations respectively, and so plying between those places, or any goods, wares, merchandize, packages, horses, horned cattle, sheep, swine or other animals and produce, landed from or taken on board the same in the Harbour of Montreal, and to fix a gross sum to be taken by the Harbour Commissioners, in lieu, commutation and satisfaction of all Charges, Duties or Harbour Dues as may be or become due and payable for any one season of navigation during this Act, by the said Corporations respectively, for such Harbour Dues to the said Commissioners, for or by reason of their steamers frequenting the said Harbour of Montreal, and the wharfage exigible, according to the said Act, on any goods or property therein, passing and re-passing to or from the said Harbour: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall be lawful for the said Commissioners of the Harbour of Montreal, with the assent of His Excellency the Governor General in Council, to take and accept from the Champlain and Saint Lawrence Rail-Road Company, such gross sum of money as may be considered a fair equivalent on that behalf, in commutation and satisfaction of all Harbour Dues, accruing to the said Commissioners, under and in virtue of the aforesaid Tariff, established by the Act aforesaid, of the tenth and eleventh years of Her Majesty's Reign, Chapter fifty-six, intituled, *An Act to amend a certain Act passed, to provide for the improvement and enlargement of the Harbour of Montreal, and for other purposes*, for wharfage or other dues accruing to such Commissioners, upon any steamers to the said Corporation belonging

Preamble.

10 and 11 V.
c. 56.

Commutation
of Harbour
Dues allowed
in certain
cases.

10 and 11 V.
c. 56.

belonging or by them employed, and any goods, wares, merchandize, packages, produce, horses, horned cattle, sheep, swine or other animals landed from or to be taken on board such steamers in the Harbour of Montreal, and plying between the said Harbour and Laprairie; and also to take and accept, with the assent of His Excellency the Governor General in Council, from the Saint Lawrence and Atlantic Rail-Road Company, such gross sum of money as may be considered a fair equivalent in that behalf, in commutation and satisfaction for all dues accruing to the said Commissioners for the like causes by the Corporation last aforesaid, for or on account of any steamers belonging to or in their employ, plying between the said Harbour of Montreal and Longueuil: Provided always, that nothing herein contained shall have the effect of dispensing with the said Tariff of Rates which shall continue to be levied in the manner provided by the said Act, until after such gross sum of money as the equivalent of such Rates shall have been assented to by His Excellency in Council.

Proviso: present Tariff to continue until the commutation is assented to.

Duration of this Act.

II. And be it enacted, That this Act shall continue to be in force until the first day of January next, and from thence to the end of the then next ensuing Session of Parliament, and no longer.

MONTREAL: Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CXX.

An Act to authorize the Trustees of the Montreal Turnpike Roads to purchase the St. Michel Road, and to open a Road to the Village of Sault-au-Récollet.

[30th May, 1849.]

WHEREAS the St. Michel Road Company, have petitioned the Legislature, praying that their Road, authorized to be made by an Ordinance of the Special Council, passed in the fourth year of Her Majesty's Reign, intituled, *An Ordinance to provide for the improvement of a certain part of the Road from the City of Montreal to the Côte St. Michel, in the Parish of Sault-au-Récollet*, may be purchased by the Trustees of the Montreal Turnpike Roads, and placed under their control and management; And whereas divers petitions have been presented to the Legislature, praying that a Turnpike Road may be made as far as the Church of the Parish of Sault-au-Récollet, and it is deemed expedient to give effect to the said Petitions by amending the Ordinances of the Legislature of the late Province of Lower Canada, and the Acts of the Legislature of the Province of Canada, providing for the improvement of the Roads in the neighbourhood of the City of Montreal: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That in addition to the Roads to and over which the provisions of an Ordinance passed in the third year of Her Majesty's Reign, intituled, *An Ordinance to provide for the improvement of the Roads in the neighbourhood of, and leading to the City of Montreal, and to raise a fund for that purpose*,—and of another Ordinance passed in the fourth year of Her Majesty's Reign, and intituled; *An Ordinance to amend and extend the provisions of an Ordinance passed in the third year of Her Majesty's Reign, intituled, 'An Ordinance to provide for the improvement of the Roads in the neighbourhood of, and leading to the City of Montreal, and to raise a fund for that purpose'*; and of an Act passed in the Session held in the fourth and fifth years of Her Majesty's Reign, intituled, *An Act to amend the Ordinances of the Legislature of the Province of Lower Canada, providing for the improvement of the Roads in the neighbourhood of the City of Montreal*; and the powers of the Trustees therein mentioned, now extend, the said provisions and powers shall be and are hereby extended to the Roads hereinafter mentioned, as fully as if the said Roads were expressly mentioned and included in the said Ordinances and Act, or as if the said powers and provisions in the said Ordinances and Act contained, were embodied

Preamble.

Ord. 4 Vict.
c. 22.

Ord. 3 and 4
Vict. c. 31.

Ord. 4 Vict.
c. 7.

Act 4 and 5
Vict. c. 35.

The said laws
and the power
of the Trustees
of the
Montreal
Turnpike
Roads extend-
ed to certain
new Roads.

embodied in this Act and hereby re-enacted with reference to the said Roads, that is to say :

St. Michel Road.

First. The Road made and macadamized by the aforesaid St. Michel Road Company, extending from the end of the Victoria Road, through and along the Côte de la Visitation and the Côte St. Michel, in the Parish of Montreal, and through and along a portion of the Côte St. Michel in the Parish of Sault-au-Récollet, to the front Road of the Côte St. Michel, in the Parish last mentioned ;

Road to Sault-au-Récollet.

Secondly. A Road to be opened and made from the front Road of the Côte St. Michel in the Parish of Sault-au-Récollet to the Village of Sault-au-Récollet at or near the Church of the said Parish.

Compensation to the St. Michel Road Company.

II. And be it enacted, That the Trustees of the Montreal Turnpike Roads aforesaid, may and shall be authorized and empowered, and they are hereby authorized and empowered, to issue to the aforesaid St. Michel Road Company, Road Debentures to the extent of and not exceeding two thousand pounds currency, redeemable in ten years from the date of such Debentures, and bearing an interest not exceeding six per centum per annum, in full compensation and extinction of all the right, title, powers and interest of the said St. Michel Road Company, in and to the aforesaid portion of Road first above described, or the Tolls thereon, and such right, title, powers and the interest of the said Company shall cease accordingly upon their receiving the said Debentures.

The new Roads to be considered as one continuous Road with those already under the Trustees.

III. And be it enacted, That the said Roads, that is to say : the Road extending from the end of the Victoria Road, in the Parish of Montreal, to the front Road of the Côte St. Michel in the Parish of Sault-au-Récollet, and the Road to be opened and made from the said front Road of the Côte St. Michel to the Village of the Sault-au-Récollet, shall, with regard to the tolls to be levied and collected thereon, be held and considered as forming one continuous Road with the nine several Roads mentioned in the seventh section of the Ordinance passed in the third year of Her Majesty's Reign, and hereinbefore referred to, and the two several Roads mentioned in the first section of the Ordinance herein before referred to, passed in the fourth year of Her Majesty's Reign ; any thing in the said two Ordinances, or either of them, to the contrary notwithstanding.

What Tolls may be levied on the new Roads.

Act 4 and 5 Vict. c. 35.

General powers of the Trustees.

IV. And be it enacted, That the Trustees of the Montreal Turnpike Roads shall and may demand, levy, exact and receive from all and every person or persons passing upon or using any part of the Roads, to be made and incorporated with the Montreal Turnpike Roads, under the authority of this Act, the same rates of toll, to be calculated in the same manner and by the same proportion as are set forth and contained in an Act of the Legislature of this Province, passed in the Session held in the fourth and fifth years of Her Majesty's Reign, intituled, *An Act to amend the Ordinances of the Legislature of the late Province of Lower Canada, providing for the improvement of the Roads in the neighbourhood of the City of Montreal*, and furthermore such rates of toll in addition to the above rates, as they shall consider sufficient to cover the annual interest of the capital expended, the collection of tolls, requisite repairs, and expenses of management ; and shall also in all respects have the same powers for making regulations concerning the said Roads, and the tolls to be levied thereon, as they now have and

and possess under the Ordinances and Act aforesaid with regard to the other Roads under their control, and the tolls to be levied thereon.

V. And be it enacted, That in addition to the loan of thirty-five thousand pounds currency, mentioned in the sixteenth section of the said Ordinance passed in the Session held in the third year of Her Majesty's Reign, and to the further loan of twelve thousand pounds currency, mentioned in the sixteenth section of the said Ordinance passed in the fourth year of Her Majesty's Reign, and authorized to be raised for the purposes of the said Ordinances, and to the further loan of twenty-seven thousand pounds currency, mentioned in the fourth section of an Act passed in the ninth year of Her Majesty's Reign, and intituled, *An Act to amend and extend the laws relative to the Turnpike Roads in the neighbourhood of Montreal*, for the purposes in the said Act authorized and specified, the said Trustees may raise by way of loan on the security of the Tolls by the said Ordinances and Act authorized to be imposed, and of other moneys which may come into their possession, and be at their disposal, under and by virtue of the said Ordinances and Act and of this Act, and not to be paid out of or chargeable against the general revenue of this Province, any further sum of money not exceeding three thousand pounds currency, for the purposes in the said Ordinances and Act and in this Act authorized and specified, and the debentures for such further loan, and also the debentures authorized to be issued under and by virtue of this Act to the St. Michel Road Company, shall respectively bear interest at the rate to be therein mentioned, which interest shall not exceed the rate of six per centum per annum, and such interest shall be paid out of the tolls upon the roads, or out of any other moneys at the disposal of the said Trustees, for the purposes of the said Ordinances and Act and of this Act.

A further loan may be raised by the said Trustees, in addition to all former loans.

Security for such loan.

Amount of loan.

Rate of Interest.

VI. And be it enacted, That over and above the sums which the said Trustees are authorized by the next preceding section of this Act and by the two Ordinances and the Act hereinbefore mentioned, to raise by way of loan, it shall be lawful for the said Trustees, at any time, and as often as occasion may require, to raise in like manner such further sum or sums as may be necessary to enable the Trustees to pay off the principal of any loan which they may have bound themselves to repay at any certain time, and which the funds in their hands, or which may be in their hands at such time and applicable to such payment, shall appear insufficient to enable them to repay: Provided always, that any sum or sums raised under the authority of this section shall be applied solely to the purpose herein mentioned, that no such sum shall be borrowed without the approval of the Governor or Person administering the Government of this Province, and that the whole sum due by the said Trustees, under Debentures then unredeemed and issued under the authority of the said Ordinances and Act and of this Act, shall in no case exceed seventy-seven thousand pounds currency; and all provisions of this Act and of the said Ordinances touching the terms on which any sum shall be borrowed under the authority thereof by the said Trustees, the rate of interest payable thereon, and the payment of such interest (except as to the payment of such interest by the Receiver General or out of any Provincial Funds) shall be extended to any sum or sums borrowed under authority of this section.

Moneys may be borrowed for the purpose of paying off former loans in certain cases.

Proviso.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CXXI.

An Act to remedy certain defects in the Registration of Deeds and Instruments relating to Real Property in the Registry Office at Montreal.

[30th May, 1849.]

WHEREAS it appears that during the time when the late Edward Dowling, held the office of Registrar of the Municipal or Registration District of Montreal, and subsequently of the County of Montreal, for both of which he was the first Registrar, appointed under the Ordinance hereinafter mentioned, and also during the interval between his death, and the time when his Successor in the office of Registrar of the said County, was appointed and took upon himself the said office, to wit, on or about the seventeenth day of July, one thousand eight hundred and forty-five, many Deeds, Instruments and Documents were presented and received at the Registry Office, in the City of Montreal, kept by the said Edward Dowling or his Deputy, for Registration either by Memorial or at full length, or of being entered as discharges of hypothecs, in the manner by Law required, but that nevertheless the same were not Registered, transcribed or entered in the manner provided and prescribed by the Ordinance, of the Governor and Special Council, for the affairs of Lower Canada, passed in the fourth year of Her Majesty's Reign, and intituled, *An Ordinance to prescribe and regulate the Registering of Titles to lands, tenements and hereditaments, Real or Immoveable Estates, and of charges and incumbrances on the same; and for the alteration and improvement of the Law, in certain particulars, in relation to the alienation and hypothecation of Real Estates, and the rights and interest acquired therein*, or the Acts amending the said Ordinance, and that divers irregularities were committed and omissions and errors made by the said Edward Dowling and his Deputy, which might, without the intervention of the Legislature, invalidate the titles and rights of parties, who so far as depended upon them, have complied with all the requirements of the Law, to the advantage of other parties who have no just claim to benefit by the said errors and omissions in the premises; for the prevention of injustice: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That during twelve months from and after the passing of this Act, no error, omission or irregularity on the part of the said Edward Dowling or his Deputy, shall be held to render the Registration of any Instrument incomplete or void, but the Registration thereof shall be held to be complete and

Preamble.

Ordinance 4
Vict. c. 30
cited.

During a certain time the registration of any instrument to be deemed com.

valid

plete, if it appears to have been presented for registration.

Registration to be valid if completed under this Act.

What shall be evidence of presentation for registration.

Certificate of Mr. Dowling, &c.

Oath of the Deputy or other witness supported by certain other evidence, &c.

Oath of Deputy, &c. and receipt for fees, &c.

Entries in Books, memorandum, &c. in the office.

If the day of presentation be not certain, &c.

Presumption in default of evidence as to the time of registration.

valid if it shall appear that such Instrument was presented to and received by the said Edward Dowling or his Deputy, for Registration, at or before some certain time from which such Registration shall, during the period aforesaid, be held to have been completed; nor shall the Registration of such Instrument, be at any time held to be incomplete or void, provided such Registration be completed in the manner provided by this Act, before the expiration of the said period of twelve months from the passing thereof.

II. And be it enacted, That for all the purposes of this Act, the fact that any such Instrument as aforesaid, was presented to and received by the said Edward Dowling or his Deputy, at or before some certain time, may be proved, by the certificate of the said Edward Dowling or his Deputy, given before the said seventeenth day of July, one thousand eight hundred and forty-five :

By the evidence on oath of the said Deputy or of any other credible witness, supported by other evidence, on the oath of some other witness, or by some entry or memorandum in writing, (*par écrit*) and more particularly by the *procès-verbal*, executed before Maitres Gibb and Easton, Notaries Public, at the City of Montreal, and bearing date the seventeenth day of July, one thousand eight hundred and forty-five, and deposited in the office of the said Maitre Gibb, that the Instrument or an entry or writing purporting to be a transcript thereof, was deposited or left before the first day of January now last, by the said Deputy, or by the Executor of, or other person acting as he personal representative of the said Edward Dowling, in the office or custody of the present Registrar or his Deputy ;

By the evidence on oath of the said Deputy of the late Edward Dowling, or of any other credible witness, supported by some receipt for fees, or memorandum or note in writing in the nature of a commencement of written proof (*par écrit*) ;

By any entry in any book, or note, or memorandum upon any Instrument, deposited as aforesaid, and before the day last aforesaid, in the office or custody of the present Registrar or his Deputy, such entry, note or memorandum, being proved by the oath of one credible witness, to have been made or signed by the said Edward Dowling or his Deputy, or by some person employed by one of them in the duties of their office ;

If the time when any such Instrument was presented and received for Registration, cannot be proved, evidence of the like nature may be taken, that it was so presented and received between two certain periods, or before some certain day ;

If there be no such evidence as aforesaid, as to the time when any such Instrument was presented and received for Registration, then, if it was deposited before the day last aforesaid, in the office of the present Registrar or his Deputy, and the privilege or hypothec to be preserved by its Registration, bear date before the coming into force of the Ordinance, cited in the Preamble to this Act, and the Instrument itself, bear date on or before the first day of November, one thousand eight hundred and forty-four, then it shall for the purposes of this Act, be deemed to have been so presented and received on or before the day last aforesaid ; and in any case it shall for the said purposes, be deemed to have been so presented and received before any other Instrument, touching which evidence is in like manner wanting and being of later date ;

All such proof as aforesaid, shall be for the purposes of this Act, and subject to the provisions hereinafter made.

Such proof to be for the purposes of this Act.

III. And be it enacted, That the Governor of this Province may appoint by Commission, under the Great Seal thereof, three persons to be Commissioners under this Act, one of whom shall be designated in the Commission as "Third Commissioner" and shall not be bound to act as Commissioner, except in cases where the others shall differ in opinion, or one of them shall be absent or prevented by any cause from attending to his duty as Commissioner; and any act or thing done by any two of the said Commissioners, shall have the same force and effect as if done by all of them.

Commissioners to be appointed under this Act.

Two to be a quorum.

IV. And be it enacted, That it shall be the duty of the said Commissioners, and they shall have full power, to take possession of (and recover if need be) all Books, Instruments and Documents, kept by or filed with the said Edward Dowling or his Deputy, or any person employed by either of them in the Registry Office aforesaid, or which ought to have been found therein by the present Registrar, at the time when he took upon himself the office of Registrar :

Powers of the Commissioners—To take possession of papers.

To take such evidence as hereinbefore is mentioned, upon any point touching which such evidence may be requisite to enable them to perform the duties hereby assigned to them;

To take evidence.

To arrange, mark, file, identify, systematize, and complete all Books, Instruments and Documents, of which they are hereinbefore required to take possession; to cause all such books as ought to have been, and are not authenticated by any Prothonotary, to be authenticated by such Officer, to obtain new books when necessary, and cause them to be so authenticated; to compare the transcription of any Instrument, in any book with the Instrument itself, whenever such comparison shall appear to them to be desirable, to correct any errors in such transcription, and so to identify and mark any interlineation, erasure, marginal note, or other alteration in any such transcription, whether made by them or by the said Edward Dowling or his Deputy, as to prevent its being again altered without authority; and generally to do all such things with regard to such Books, Instruments and Documents as aforesaid, which the said Edward Dowling or his Deputy, could and ought to have done, distinguishing clearly what is done by them, from what was done by the said Edward Dowling or his Deputy; except that the said Commissioners, shall not complete or make any addition to or alteration in any minute or Day Book, kept by the said Edward Dowling or his Deputy, nor shall they be bound to make any search, or to give any certificate which could not be given without a search, except upon the express order of the Court of Queen's Bench for the District of Montreal, or to give any certificate whatever which shall subject them to any personal liability for any error therein, except that it is given to the best of their knowledge and belief; nor shall they make any index to Estates;

To complete registrations, authenticate Books, &c.

General power to do what Mr. Dowling ought to have done.

Exceptions to such last mentioned power.

In completing the Books into which any Instruments ought to be transcribed, the Commissioners shall not be bound to transcribe the same in the order of their dates, or of their presentation for Registration, but shall adopt such order as may best enable them speedily to complete the work, making proper indexes, and shewing in the margin or by some book to which they shall refer, their decision as to the time at which each Instrument

Commissioners may adopt such order of transcription as will most facilitate their work.

Instrument touching which such decision shall be deemed requisite, was presented for Registration ;

Entry of discharge.

They shall make in the margin of the proper books, any entry of the discharge of any hypothec or privilege, which in their opinion ought to be so entered ;

To take all evidence in writing and keep a record of it.

They shall reduce to writing all evidence given before them, and cause the same to be entered in books to be kept for that purpose, and signed in such books by the parties giving it, and properly attested by the Commissioners, so that it cannot afterwards be varied ; but the evidence given at one time, may relate to any number of books or Instruments, provided they be clearly referred to, and shall be as valid as if the Witness had been separately examined as to each ;

To report their doings to the Governor.

They shall report their doings under this Act to the Governor, at such times and in such form and extent of detail as he may, through the Secretary of the Province, require of them, and shall answer such inquiries as he may from time to time direct to be made of them ;

To deliver over books, &c. to the Registrar when completed.

They shall, when they have performed the duties hereby assigned to them, deliver over all books, instruments and documents then in their possession as such Commissioners, to the then Registrar of the County of Montreal, to remain in the Registry Office of the said County as part of the Records and Muniments thereof ;

To compel the attendance of witnesses, production of papers, &c.

They shall have power to summon before them and to compel the attendance of any person whom they may think it necessary to examine in the performance of their duties under this Act, and to cause him to bring with him and produce any book, instrument or document in his possession or control, and to administer an oath to such person or to any person appearing voluntarily before them ; and if any person so summoned shall fail to attend, or if any person appearing before them shall refuse to answer any lawful question or to bring and produce any such book, instrument or document as aforesaid, he shall thereby incur a penalty of ten pounds to which he may be condemned by the said Commissioners, who, if such penalty be not immediately paid to them, may forthwith cause him to be apprehended and imprisoned for a period not exceeding three months, unless such penalty be sooner paid ;

Penalty for not obeying.

Power to examine Mr. Dowling's Deputy, obtain books and papers from him, &c.

They may summon the Deputy, Executor or other personal representative of the said Edward Dowling to appear before them, to deliver over to them all books, instruments, and documents in his possession or control, and of which they are hereinbefore authorized to take possession, saving always his right, if any he hath, to any fees which may be due upon the same ; and any non-compliance with such Summons, or his refusal to answer any such question as aforesaid, shall subject the party in default to the penalty (and in default of payment to the imprisonment) aforesaid ;

Allowances to witnesses.

They may allow a fair indemnity to the said Deputy or to any other witness, for any expenses occasioned to him by his attendance before them, except the persons mentioned in the preceding paragraph who shall be allowed no such indemnity for their attendance as witnesses ;

They

They may, with the approval of the Governor, employ such clerks or writers and other assistance as may be necessary for the performance of their duties with proper despatch;

Employment
of writers, &c.

They shall give public notice once in each month, from the time of their appointment until the expiration of the said period of twelve months from the passing of this Act, in the *Canada Gazette*, and in one newspaper published in Montreal in English, and in one newspaper there published in French, notifying their appointment under this Act, and calling upon all persons interested in the registration of any Instrument presented to the said Edward Dowling or his Deputy for registration, to ascertain whether any thing ought to be done under this Act to perfect the registration thereof, and to govern themselves accordingly, warning them that if they neglect so to do they incur the risk attending any defect in such registration, and stating the day on which the said period will expire.

Public notice
to be given by
the Commis-
sioners.

V. And be it enacted, That after the expiration of the said period of twelve months from the passing of this Act, the transcription and completion by the said Commissioners, of the registration of any Instrument presented to and received by the said Edward Dowling or his Deputy for registration, shall be as effective to perfect and make valid such registration as if such transcription had been made and such Registration completed at the proper time by the said Edward Dowling or his Deputy; nor shall it in any case be an objection to the validity of the Registration of any Instrument that the same was not entered, or was not entered at the proper time, in the Minute or Day-Book or Index, or was not filed, marked or endorsed, or that any other of the requirements of the Ordinance and Acts aforesaid, (except as to transcription touching which special provision is hereby made) by the said Edward Dowling or his Deputy; nor shall any error in the transcription of any Instrument be held in any case to invalidate the Registration thereof, unless such error be in some particular material in the case, and such as might have misled the party pleading such error, or his *auteur*, to his detriment: and any decision of the Commissioners testified by any entry, Indorsement, Memorandum or Writing whatsoever, under their Hands, as to the Registration of any such Instrument as aforesaid, or as to the period of such Registration, or any Certificate granted by them or by the Registrar of the County of Montreal, and founded upon any such decision, shall be *prima facie* evidence of the truth of the facts found by such decision; nor shall the decision itself be liable to be impugned except by shewing that the evidence upon which it was founded was untrue, or that, if true, it was not such as, under this Act, was sufficient to warrant such decision: Provided always, that nothing in this Act shall be construed to weaken or diminish the effect of any certificate or evidence which without this Act would be proof of the Registration of any Instrument or of the period of such Registration.

Effect of the
completion of
registration by
the Commis-
sioners.

Certain objec-
tions removed
in any case.

As to errors in
transcription.

Decisions of
Commission-
ers to be *prima
facie* evidence.

Proviso; no
proof of regis-
tration to be
weakened by
this Act.

VI. And be it enacted, That nothing in this Act shall be construed to diminish the liability of the personal representatives or sureties of the said Edward Dowling, or of his Deputy or his personal representatives or sureties, for any damage actually sustained by any party, and for which without this Act they would have been respectively liable.

Liabilities of
Mr. Dowling's
representa-
tives, &c. to
remain.

VII. And be it enacted, That the said Commissioners shall have their office at the place where the Registry Office for the County of Montreal shall be held at the time; and

Office of the
Commission-
ers, and provi-

sion for their expenses, &c.

and that their expenses authorized by this Act, and such allowance for their services, not exceeding twenty shillings per diem, as the Governor in Council shall think it right to allow, shall be paid them from time to time out of the Public moneys of this Province.

Interpretation clause.

VIII. And be it enacted, That this Act shall be known and cited as "The Montreal Registry Act," and the Commissioners aforesaid shall be known as "The Commissioners under the Montreal Registry Act;" the Interpretation Act shall apply to this Act; and the word "Instrument" in this Act shall include as well the Deed or Instrument which is affected by the Registration, as the Memorial thereof, when the Registration is by Memorial.

Application of penalties.

What fees may be taken by Commissioners.

IX. And be it enacted, That the penalties imposed by this Act shall belong to the Crown for the public uses of the Province; and that no fees shall be payable to the said Commissioners for any thing done by them under this Act, except for Certificates granted by them for which they shall be entitled to the same fees as the Registrar would have for Certificates of a like kind, and which being so received, shall go towards defraying the expenses to be incurred under this Act.

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ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CXXII.

An Act to divide the Municipality of Drummond into two Municipalities.

[25th April, 1849.]

WHEREAS by reason of the want of some direct means of communication between the distant Townships in the County of Drummond and the County Town of the said County, it has been found impossible to secure the attendance of the Councillors elected for the Municipality of the said County, under the Act passed in the session held in the tenth and eleventh years of Her Majesty's Reign, and intituled, *An Act to make better provision for the establishment of Municipal Authorities in Lower Canada*, thereby rendering the said Act inoperative in the said County, and for remedy thereof, it is expedient to divide the said County into two Municipalities: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the first Saturday in July next after the passing of this Act, the said County of Drummond shall be divided into and form Two Separate and Distinct Divisions, the first whereof shall consist of the Townships of Grantham, Wickham, Durham, Acton, Upton, Wendover and Simpson, together with all the Gores and augmentations of the said Townships; and the second shall consist of the Townships of Aston, Bulstrode, Stanfold, Arthabasca, Chester, Ham, Wotton, Tingwick, Warwick, Horton, Gore and Kingsey, together with all the gores and augmentations of the said Townships; and each such Division shall be a Municipality, in the same manner as any County Municipality provided by the Act above mentioned, and shall have and exercise and possess within the limits hereby assigned to it, all and every the corporate or other powers given and granted by the said Act to County Municipalities; and the first of the said Divisions shall be known by the corporate name of *The Municipality of Drummond, Number One*, and the place of holding the meetings of the Municipal Council of the said Division, shall be at Drummondville, in the said Township of Grantham; and the second of the said Divisions shall be known by the corporate name of *The Municipality of Drummond, Number Two*, and the place of holding the meetings of the Municipal Council of the said Division, shall be at the place commonly called "French Village," in the said Township of Kingsey.

Preamble.

10 and 11
Vict. c. 7
cited.

County of
Drummond
divided into
two Municipalities.

Retirement of
present Municipal Council-
lors, &c.

II. And be it enacted, That upon, from and after the first Saturday in July next after the passing of this Act, the whole of the Councillors now elected for the said Municipality of the County of Drummond shall go out of office, and the said Municipality shall be dissolved and cease; and the first election of Councillors for the Municipalities hereby erected shall be had on the second Monday in July next after the passing of this Act, and all the provisions and enactments of the Act cited in the Preamble to this Act shall apply to the Municipalities hereby erected, as if the said County of Drummond had been divided by the said Act into two Municipalities in the manner in which it is hereby so divided, and as if the said second Monday in July next after the passing of this Act; were the day appointed in and by the said Act for the first election of Councillors for the said Municipalities.

As to existing
debts, liabilities
and By-laws.

III. And be it enacted, That all debts due by the present Municipality of the said County shall be paid by the said Municipality Number One, and all moneys due and owing to the said present Municipality shall be paid over to the said Municipality Number One; and all existing By-Laws of the said present Municipality shall remain in full force and effect until repealed or altered by any By-Law of either of the Municipalities hereby respectively constituted.

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ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CXXIII.

An Act to divide the County of Berthier into two Municipalities, and for other purposes relative to the said County.

[25th April, 1849.]

WHEREAS by reason of the great distance at which the remote Parishes of the County of Berthier are situate from the place of holding the sittings of the Municipal Council of the said County, it has been found difficult to secure the attendance of all the Councillors for the said localities, and for remedy thereof it is expedient to divide the said County into two Municipalities: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council, and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the first day of July next after the passing of this Act, the said County of Berthier shall be divided into and form Two Separate and Distinct Divisions, the first whereof shall consist of the Parishes of Lavaltrie, Lanoraie, Dautré, Berthier, l'Isle du Pads, and the other Islands within the said County, St. Berthélemy, St. Cuthbert, St. Norbert, St. Gabriel, the Township of Brandon, and the Parish of St. Elizabeth, together with all the Augmentations of the said Parishes and Township, and shall be called *The Municipality of Berthier, Number One*, and the place of holding the sittings of the Municipal Council of the said Division shall be in the said Parish of Berthier; and the second Division of the said County shall consist of the Parishes of St. Paul, St. Charles Borromée, St. Ambroise, and St. Alphonse de Kildare, St. Mélanie de Daillebout, St. Felix de Ramsay, and St. Thomas, together with the Augmentations of the said Parishes, and shall be called *The Municipality of Berthier, Number Two*, and the place of holding the sittings of the Municipal Council of the said Division shall be at Industry Village, in the said Parish of St. Charles Borromée; and each such Division shall be a Municipality in the same manner as any County Municipality provided by the Act passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, and intituled, *An Act to make better provision for the establishment of Municipal Authorities in Lower Canada*, and shall have and exercise and possess within the limits hereby assigned to it, all and every the corporate or other powers given and granted by the said Act to County Municipalities.

Preamble.

County of Berthier divided into two Municipalities—their respective limits, &c.

II. And be it enacted, That at the first annual Election of Councillors for the said Municipalities, those of the Councillors now in office, who but for this Act would remain

Certain Councillors to remain in office.

remain in office, shall nevertheless remain in office, and shall represent the localities for which they are respectively elected, in the Municipal Councils of the divisions in which such localities are respectively situate, until the period for which they shall have been elected shall expire.

As to By-laws of the present Municipality.

III. And be it enacted, That all By-laws of the Municipal Council of the now existing Municipality of the said County, shall remain in full force and effect as By-laws of each of the said new Municipalities respectively, until altered or repealed by any By-law to be passed by the said Municipalities respectively; and all moneys in the hands of the Secretary-Treasurer of the said Municipality shall, after paying therefrom all debts due by the said Municipality, be divided between the said two Municipalities in proportion to the amount levied in each respectively.

Recital.

Governor in Council may assign limits to a village in the said County, without the intervention of the Municipal Council.

IV. And whereas difficulties have arisen in consequence of its being provided by the above recited Act, that the limits of Villages shall be fixed by the Municipal Council of the County in which such Villages are situate; For remedy thereof—Be it enacted, That on a Petition from thirty landholders of any such Village in either of the Municipalities hereby erected, to the Governor in Council, praying that limits be assigned to such Village in order that it may be incorporated, the said inhabitants proving to the satisfaction of the said Governor in Council, that such Village contains forty houses or upwards within a space of thirty superficial arpents or acres, it shall be lawful for the said Governor in Council, by Proclamation, to fix the limits and boundaries of such Village, and such Village shall thereupon be a Corporation to all intents and purposes, and shall be subject to all and every the provisions of the above mentioned Act, with respect to Incorporated Villages, as if the said inhabitants had petitioned the Municipal Council of the Municipality wherein such Village is situate, to have limits assigned to such Village and such limits had been assigned by such Municipal Council and confirmed by Proclamation of the Governor in Council; any thing in the above recited Act to the contrary notwithstanding.

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ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CXXIV.

An Act to divide the County of Lotbinière into two Municipalities.

[25th April, 1849.]

WHEREAS the Councillors elected for the Parishes of St. Sylvester, St. Giles and St. Agathe, in the Municipality of the County of Lotbinière, under the Act passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, and intituled, *An Act to make better provision for the establishment of Municipal Authorities in Lower Canada*, frequently find it impossible, from the remoteness of the said Parishes and the want of easy means of communication, to attend the sittings of the Municipal Council, which are held in the Parish of St. Croix, the chief place in the said Municipality, and for remedying this inconvenience it is expedient to divide the said County into two Municipalities: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the first Saturday in July next, after the passing of this Act, the said County of Lotbinière shall be divided into and shall form Two Separate and Distinct Divisions, of which the first shall consist of the Parishes of St. Antoine, St. Croix, St. Flavien, Lotbinière, and St. Jean, with their Augmentations; and the second shall consist of the Parishes of St. Sylvester, St. Giles, and St. Agathe, with their Augmentations; and each of the said Divisions shall be a Municipality in the same manner as any County Municipality constituted by the Act above mentioned, and shall have, exercise and possess within the limits hereby assigned to it, all and every the corporate and other powers given and granted by the said Act to County Municipalities; and the first of the said Divisions shall be known by the corporate name of *The Municipality of the County of Lotbinière, Number One*, and the place of holding the meetings of the Municipal Council of the said Division shall be at St. Croix; and the second of the said Divisions shall be known by the corporate name of *The Municipality of the County of Lotbinière, Number Two*, and the place of holding the meetings of the Municipal Council of the said Division shall be at St. Giles.

Preamble.

Act 10 and 11
V. c. 7, cited.

County of
Lotbinière di-
vided into two
Municipalities.

Names of the
Municipalities,
and places of
meeting.

II. And be it enacted, That upon, from and after the first Saturday in July next, after the passing of this Act, all the Councillors now elected for the said Municipality of the County of Lotbinière shall go out of office, and the said Municipality shall be dissolved

Municipality
of Lotbinière
dissolved.

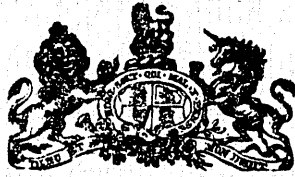
First election
of Councillors
for new Muni-
cipalities.

dissolved and cease ; and the first election of Councillors for the Municipalities hereby erected shall be had on the second Monday of July next, and all the provisions of the Act mentioned in the Preamble to this Act shall apply to the Municipalities hereby erected, as if the said county of Lotbinière had been divided by the said Act into two Municipalities in the manner in which it is hereby so divided, and as if the said second Monday in July next were the day appointed in and by the said Act for the first election of Councillors for the said Municipalities.

As to present
By-laws, debts
and property.

III. And be it enacted, That all By-laws of the Municipal Council of the now existing Municipality of the said Council shall remain in full force and effect as By-laws of each of the said new Municipalities respectively, until altered or repealed by any By-law to be passed by the said Municipalities respectively, and all moneys in the hands of the Secretary-Treasurer of the said Municipality shall, after paying therefrom all debts due by the said Municipality, be divided between the said two Municipalities in proportion to the amount levied in each respectively.

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ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CXXV.

An Act to detach the Parish of Saint Antoine de L'Isle aux Grues from the Municipality of L'Islet, and to erect the same into a separate Municipality.

[25th April, 1849.]

WHEREAS the Parish of St. Antoine de L'Isle aux Grues, and the Islands adjacent thereto, which form part of the County of L'Islet, are so situate as not to enjoy the advantages of the Act passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, and intituled, *An Act to make better provision for the establishment of Municipal Authorities in Lower Canada*, the Councillors being obliged, each time they attend the Sittings of the Council at L'Islet, in the said County, to pass over more than three miles of water in order to reach the Main Land, and being in winter unable to attend the Sittings of the said Council of the Municipality of the said County of L'Islet without making pecuniary sacrifices, in addition to the personal danger they must incur; And whereas the interests of the said Parish and Islands are moreover distinct from those of the Main Land: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the First day of July next, after the passing of this Act, the Parish of St. Antoine de L'Isle aux Grues and the Islands adjacent thereto, in the County of L'Islet, shall form a Distinct Municipality, separate from that of the rest of the said County, and to be known and designated as *The Municipality of the County of L'Islet, Number Two*, which for all the purposes of this Act and of the Act aforesaid, shall be deemed and taken to form only one Parish; and that the said Municipality hereby constituted shall have, exercise and possess within the limits hereby assigned to it, all and every the Corporate or other powers given and granted by the said Act to County Municipalities; and the place of holding the Meetings of the Council of the said Municipality shall be in the Parish of St. Antoine aforesaid; but nothing herein contained shall affect the Municipality consisting of the remainder of the said County, or any thing done by the Council thereof, except that it shall be called *The Municipality of the County of L'Islet, Number One*, and that all the Councillors heretofore elected for any place within the Municipality hereby erected, shall retire from office and cease to be Members of the Council of the Municipality, Number One, upon, from and after the said First day of July next.

Preamble.

10 and 11 Vict.
c. 7, cited.

St. Antoine de L'Isle aux Grues, formed into a distinct Municipality.

Council of Municipality of remainder of County not to be affected by this Act.

Election of
Councillors of
Municipality
hereby erected.

II. And be it enacted, That on the second Monday in the month of July next, or on some other Monday in the same month, three Councillors shall be elected in and for the said Municipality, Number Two, and in the manner provided in and by the said Act, and such Councillors, together with the two who shall cease to be Members (as aforesaid) of the Council of the Municipality, Number One of the said County, shall form the Council of the said Municipality, Number Two; and the said two Councillors, elected before the passing of this Act, shall be the first to go out of office and to be replaced by others to be elected on the second or some other Monday in the month of July, one thousand eight hundred and fifty, and not before, after which the three or two (as the case may be) who shall have been longest in office, shall go out in the month of July in each year.

As to existing
By-laws, liabilities and
property.

III. And be it enacted, That all By-Laws of the Municipal Council of the now existing Municipality of the said County shall remain in full force and effect as By-Laws of each of the said two new Municipalities respectively, until altered or repealed by any By-Law to be passed by the said Municipalities respectively; and all moneys in the hands of the Secretary-Treasurer of the said Municipality shall, after paying therefrom all debts due by the said Municipality, be divided between the said two new Municipalities, in proportion to the amount levied in each respectively.

Resident
house-holders
in Municipality
No. 2, may
be elected
without pro-
perty qualifi-
cation.

IV. And inasmuch as the circumstances of the said Municipality, Number Two, are essentially different from those of the other Municipality of the said County—Be it therefore enacted, That any person being a resident Householder in the said Municipality Number Two, and having been so for three months and upwards before his Election, shall be capable to be elected a Councillor for the said Municipality, and to serve as such so long as he shall be so resident, although he may not have the qualification in property required by the Act aforesaid.

Provision as to
voters at elec-
tions for Muni-
cipality No. 2.

V. And be it enacted, That every Lessee of Lands lying in the said Municipality Number Two, and being of the yearly value of at least five pounds currency, shall, if he be himself resident in the said Municipality, and have been so for the three months next before the Election, be capable of voting at the Election of Councillors for the said Municipality, although he may not have the qualification in property required by the said Act, and shall also, notwithstanding his not having such qualification, and so long as he shall be so resident, be capable of being appointed to and of holding and exercising any office under the Council of the said Municipality, or to which they have the power to appoint, and shall be liable to the same penalties for not accepting or not performing the duties of such office as if he had possessed the qualification in property required by the said Act; all the provisions whereof which are not inconsistent with those of this Act, shall apply to the Municipality hereby erected, and to the Councillors and Officers elected or appointed therein.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CXXVI.

An Act detaching the Settlements of Ste. Anne des Monts and Cap Chat, from the Municipality of Gaspé, and to erect the same into a separate Municipality.

[30th May, 1849.]

WHEREAS it is expedient by reason of the distance at which the Settlements of Sainte Anne des Monts and Cap Chat, on the south shore of the St. Lawrence, appertaining to the north division of the Municipality of Gaspé, are situate from Gaspé Basin, where the sittings of the said Municipality are by Law holden, and the want of a Road of communication between the said Settlements and the Bay of Gaspé, to detach them from the said Municipality, and to authorize the inhabitant householders therein, to organize and erect themselves into a separate and independent Municipality, suitable to their local situation and circumstances, and for the regulation and government of their local concerns, and for this purpose to authorize and empower them from time to time as the occasion or increase of inhabitant householders in the said Settlements may call for or require, to re-form and re-organize themselves in such manner as they shall deem most conducive to their well being and interests, and the internal improvement of their localities: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the passing of this Act, the said Settlements of Ste. Anne des Monts and of Cap Chat, shall be and the same hereby are detached from the said Municipality, called and known as the North Division of Gaspé, of which heretofore they made part, and that the inhabitant householders in the said two Settlements, shall from and after the passing hereof, constitute a Body Corporate and Politic, by the name of *The Municipality of Ste. Anne des Monts*, and by that name have perpetual succession, may sue and be sued, and may or may not, as to the said Corporation shall seem meet, have a Common Seal, and shall have the power to take, hold and enjoy within the limits of such Municipality, real property not exceeding the yearly value in amount of one hundred pounds, and to alienate the same, and shall have all such other corporate powers as, though not expressly mentioned in and granted by this Act, shall be necessary for the due performance of the duties, and the due exercise of the powers which are hereby imposed or conferred on the said Corporation.

Preamble.

Settlements of Ste. Anne des Monts and Cap Chat, set apart as a separate Municipality.

Corporate name and powers.

Limits of Municipality may be more particularly described by order in Council.

II. And be it enacted, That if it shall be found necessary at any time hereafter to define more particularly than hereinabove the limits of the said Municipality of Ste. Anne des Monts, it may be done as often as necessary by an Order or Orders in Council, by the Governor or Person administering the Government of the Province for the time being, and the limits of the said Municipality being so defined and fixed, the said Corporation shall have, and may exercise within such limits all and every the corporate and other powers given and conferred upon the Municipal Corporations, by and in virtue of an Act passed in the tenth and eleventh years of Her Majesty's Reign, intituled, *An Act to make better provision for the establishment of Municipal Authorities in Lower Canada*, and this notwithstanding any repeal or modification of the said Act that may take place, and which shall nevertheless always be referred to, as that by which the powers hereby given to the said Corporation, as well as the liabilities thereof shall be ruled.

10 and 11 Vic. c. 7, cited.

Corporation to be represented by a Council.

III. And be it enacted, That the said Corporation shall be represented by a Municipal Council, to consist of the Councillors or Members chosen as hereinafter mentioned, and who shall perform the duties, and exercise the powers hereby conferred upon the said Corporation, subject always to the liabilities as in the like cases are provided in and by the above recited Act.

Provision for dividing the settlement into Districts for purposes of this Act.

IV. And be it enacted, That in the course of the month of July next, after the passing of this Act, or as soon thereafter as may be, it shall be the duty of the senior Justice of the Peace, in concurrence with the two senior Officers of Militia, residing in the said Settlements of Ste. Anne des Monts and Cap Chat, to meet at such place in Ste. Anne des Monts, as the said senior Justice of the Peace, shall by writing designate for the purpose, and there to agree upon and make a division of the said Settlements into Districts or Divisions for the purposes of this Act, each consisting of not less than twenty heads of families each being an inhabitant householder, and of which division and of the proceedings relative thereto, a memorandum or *procès-verbal* signed by the said senior Justice and Militia Officers respectively, mentioning the names of the several inhabitant householders within each of the said Districts or Divisions, shall be made, kept and preserved among the records and remembrances of the Corporation about to be established.

Meetings of inhabitants of Districts for election of Councillors.

V. And be it enacted, That the inhabitant householders whose names shall have been so taken and recorded in each of the said Districts or Divisions, shall meet at such time and place as shall be designated by an advertisement in writing, signed by such Justice of the Peace and senior Militia Officers, and posted up at the most public place in each of the said two Settlements, at least eight days next before the day fixed for the Election, and then and there shall choose a fit and proper person as Councillor, to represent them in the said Corporation, and whose Election shall be certified to the said Justice of the Peace, as soon thereafter as may be, by any three of the householders present at the Election, of all which the minutes and memoranda shall be kept among the records and remembrances of the said Corporation.

Councillors to remain in office two years, and may be re-elected.

VI. And be it enacted, That the persons so chosen, as above mentioned Councillors, shall form the Municipal Council or Corporation of the aforesaid Municipality of Ste. Anne des Monts, and shall have the management of the affairs of the said Municipality, and shall respectively remain in office two years, and may again be elected as Councillors, and shall hold their first meeting at such time and place as the said senior Justice of the Peace shall fix for the purpose, giving previously due notice thereof, in such manner

manner as he shall think most expedient, and at which first meeting the said senior Justice of the Peace shall preside.

VII. And be it enacted, That the said Municipal Council, shall at its first meeting elect a Mayor, who shall remain in office during two years only, but may be re-elected thereto, if the said Municipal Council or Corporation see fit, and the said Council shall have the power to make such Rules and Regulations, not being contrary or repugnant to the Laws of the Province, for the election and period of service of Councillors, to be chosen at the expiration of the said term of two years, and periodically thereafter for all time to come, and for the subsequent or Periodical Meetings or Sessions of the said Municipal Council or Corporation, and for all other purposes of this Act, as it may deem proper and contributive to the more perfect organization and adaptation of the said Municipal Council, to the progressive increase in population, improvement and other circumstances and exigencies of the Municipality, represented by the said Municipal Council; and may appoint a Secretary and Treasurer to the said Council, and such other Officer or Officers as from time to time the said Council shall see fit, with such salary or allowances from the Funds of the said Municipality, as the said Council or Corporation shall see fit, in compensation of their services respectively.

Election of
Mayor.

Appointment
of Secretary
and Treasurer.

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ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CXXVII.

An Act to remove the Seat of the Municipality Number One of the County of Rimouski, from *St. Patrice de la Rivière du Loup* to *St. Jean Baptiste de l'Isle Verte*.

[25th April, 1849.]

WHEREAS it is expedient to remove the seat of the Municipality Number One of the County of Rimouski to a more central place in the said Municipality: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the fifteenth day of June next after the passing of this Act, the place of holding the sittings of the Municipal Council of the said Municipality, shall be the Parish of *St. Jean Baptiste de l'Isle Verte*, instead of the Parish of *St. Patrice de la Rivière du Loup*, as at present.

Preamble.

Place of sitting of Municipal Council removed.

II. And be it declared and enacted, That the Municipality, the seat whereof is by this Act removed as above provided, is the Municipality Number One of the said County, and the Municipality, the seat whereof is at Rimouski, is the Municipality Number Two of the said County, any Proclamation fixing the limits of the said Municipalities, or any thing contained in the Act passed in the Session held in the tenth and eleventh years of Her Majesty's reign, and intituled, *Act to make better provision for the establishment of Municipal Authorities in Lower Canada*, to the contrary notwithstanding: Provided always, that all Acts and things done by the Municipal Councils of either of the said Municipalities before the passing of this Act, are and shall be considered as valid and effectual to all intents and purposes, notwithstanding any thing inconsistent with this Section in any such Proclamation as aforesaid, or in the Act above mentioned, or in any *Acte* or By-law of either of the said Municipal Councils, and whatever be the number given to or taken by any such Council in any such Proclamation, *Acte* or By-law.

Which shall be the Municipality No. 1, of the County of Rimouski.

10 and 11 V. c. 7.

Proviso.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CXXVIII.

An Act to divide the County of Rimouski into two Districts for the Registration of Deeds.

[30th May, 1849.]

WHEREAS the County of Rimouski is inconveniently large for Registration purposes: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That upon from and after the first day of July next after the passing of this Act, the county of Rimouski, shall for all the purposes of the Ordinance and Acts relative to the Registration of Deeds and other Documents affecting real property in Lower Canada, be divided into two Registration Districts, the first of which shall include and consist of the Parishes of Rivière du Loup, St. Arsène, St. George de Kakouna, Isle Verte, St. Eloi and Trois Pistoles, with the Townships of Whitworth and Viger, and the Registry Office of the said Registration District shall be kept in the Parish of St. Jean Baptiste de l'Isle Verte, and a Registrar may be appointed at any time after the passing of this Act for the said Registration District, to enter upon the functions of his office on the said first day of July; and the second Registration District of the said County shall include and consist of all that part of the said County not included in the first Registration District, and the Registry Office thereof shall be kept at Rimouski, where that for the whole County is now kept, and the Registrar now appointed for the County shall, without any new appointment, be the Registrar of and for the said second Registration District.

Preamble.

County divided into two Registration Districts.

Limits of the First District. Registrar to be appointed.

Limits of the Second District.

Present Registrar to remain.

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ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CXXIX.

An Act to divide the County of Megantic into two Districts for the Registration of Deeds.

[30th May, 1849,]

WHEREAS the County of Megantic is inconveniently large for Registration purposes: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That upon from and after the first day of July next after the passing of this Act, the County of Megantic shall for all the purposes of the Ordinance and Acts relative to the Registration of Deeds and other documents affecting real property in Lower Canada, be divided into two Registration Districts, the second of which shall include and consist of the Townships of Tring, Shenley, Broughton, Dorset, Forsyth, Lambton, Price and Aylmer, and the Registry Office of the said second Registration District shall be kept in the Township of Tring, and a Registrar may be appointed at any time after the passing of this Act for the said Registration District, to enter upon the functions of his office on the said first day of July next; and the first Registration District of the said County shall include and consist of all that part of the said County not included in the second Registration District, and the Registry Office thereof shall be kept in the Township of Leeds, where that for the whole County is now kept, and the Registrar now appointed for the County shall, without any new appointment, be the Registrar of and for the said first Registration District.

Preamble.

County of Megantic divided into two Registration Districts.

Limits of the second District.

Registrar to be appointed. Limits of the first District.

Present Registrar to remain.

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ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CXXX.

An Act to provide for the Removal of the Registry Office of the County of L'Islet, from the place where it is now kept, to the Parish of L'Islet.

[25th April, 1849.]

WHEREAS the Registry Office of the County of L'Islet was fixed in the Parish of St. Thomas, at the Eastern extremity of the said County, in order that it might be nearer to the County of Bellechasse, for which it was also intended to be the Registry Office; And whereas a Registry Office hath since been established in the said County of Bellechasse, and it hath become necessary to change the site of the Registry Office of the County of L'Islet, and to place it in a position more central for the said County: And whereas the Parish of L'Islet, in the said County, is the most central and convenient place for the majority of the Inhabitants: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the passing of this Act, it shall and may be lawful for the Governor, Lieutenant Governor, or Person Administering the Government of this Province for the time being, by and with the advice of the Executive Council thereof, to order the Removal of the Registry Office of the said County of L'Islet from the place where it is now kept to the said Parish of L'Islet.

Preamble.

Governor in Council may order the Registry Office to be removed to L'Islet.

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ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CXXXI.

An Act to Divide the County of Saguenay into two Divisions for the
Registration of Deeds.

[30th May, 1849.]

WHEREAS the County of Saguenay is inconveniently large for Registration purposes: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That upon, from and after the Tenth day of June next, after the passing of this Act, the County of Saguenay shall, for all the purposes of the Ordinance and Acts relative to the Registration of Deeds and other documents affecting Real Property in Lower Canada, be divided into two Registration Divisions, the first of which shall include and consist of all that part of the said County not included in the second of the said Divisions; which said Second Division shall include and consist of the Townships of Ouatchouan, Metabetchouan, Caron, De Mesy, Plessis, Kenongami, Labarre, Signay, Delisle, Taché, Bourget, De Jonquière, Simard, Tremblay, Harvey, Chicoutimi, LaTerrière, Bagot, Simon, Lartigue, St. Jean, Saguenay, Tadousac, Bergeronnes, Escoumain, D'Iberville, Laval and Betsiamitis, and of the Seigniory of Milles Vaches or Portneuf; and the Registry Office of and for the said second Registration Division shall be kept at Chicoutimi, in the said Township of Chicoutimi, and a Registrar may be appointed at any time after the passing of this Act, for the said Registration Division, to enter upon the functions of his Office on the said Tenth day of June; and the Registry Office of the first Registration Division of the said County shall continue to be held where that for the whole County is now kept, and the Registrar now appointed for the County shall, without any new appointment, be the Registrar of and for the said first Registration Division.

Preamble.

County divided into two Divisions.

Place of the Registry office of the second District, &c.

And of the first District, &c.

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ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CXXXII.

An Act to annex a certain part of the Township of Upton to the County of St. Hyacinth, for Judicial and Municipal purposes.

[30th May, 1849.]

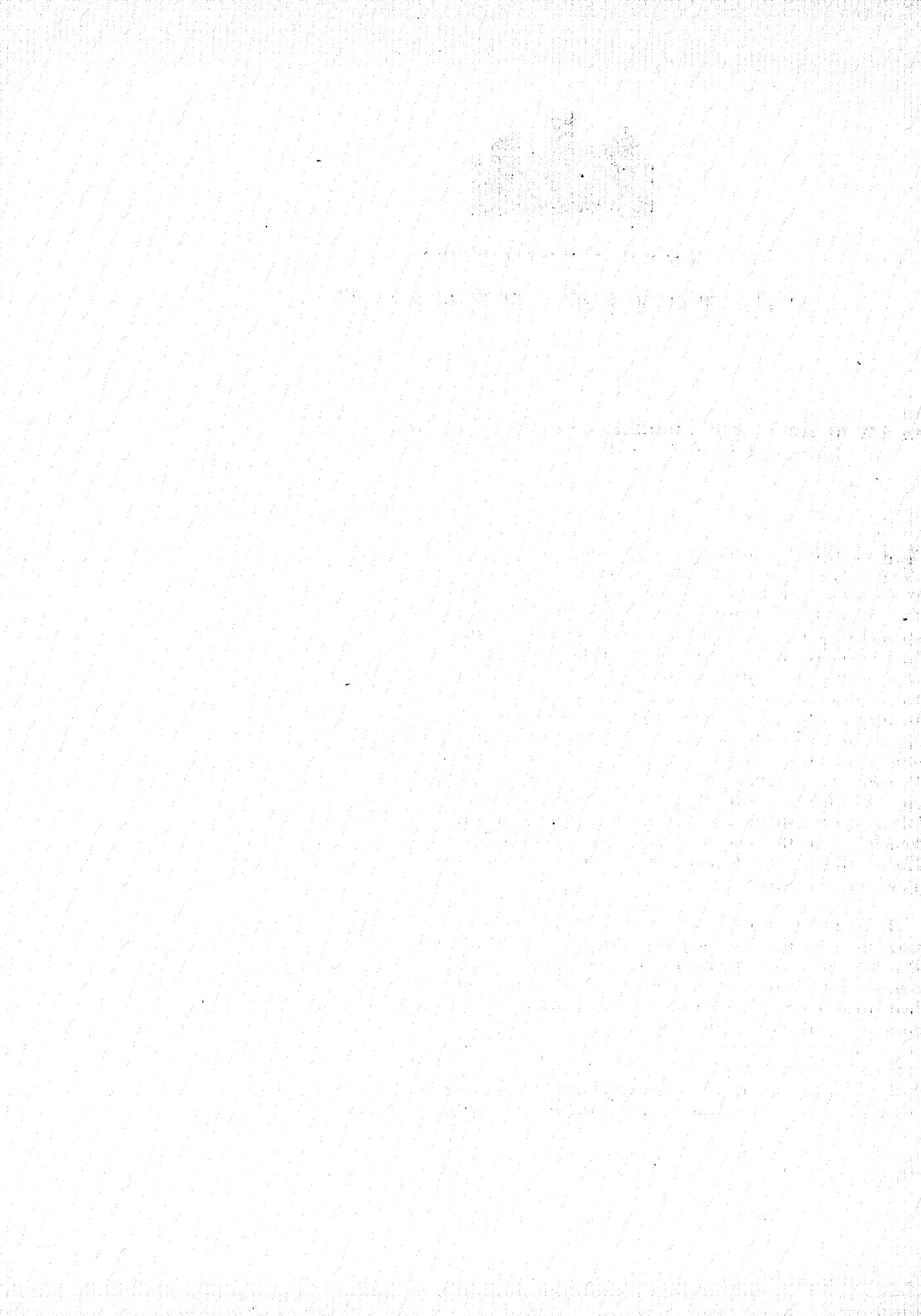
WHEREAS from the great distance at which that part of the Township of Upton, in the District of Three-Rivers, which comprises the eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, sixteenth, seventeenth, eighteenth, nineteenth, twentieth and twenty-first ranges of the said Township, is situate from the Town of Three-Rivers, and the want of roads and every other means of communication from the said Township to the said Town of Three-Rivers, it would be more advantageous for the inhabitants of the said ranges if the said ranges were annexed to the County of St. Hyacinth, in the District of Montreal: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the passing of this Act, the whole of the said ranges enumerated in the Preamble shall be and are hereby detached from the said Township of Upton and District of Three-Rivers, and shall be included in and form part of the Parish of St. Dominique, in the said County of St. Hyacinth, and in the District of Montreal, for all Judicial and Municipal purposes.

Preamble.

Certain ranges of Upton annexed to the County of St. Hyacinthe.

II. Provided always, and be it enacted, That all suits, actions and proceedings which shall be pending at the time of the passing of this Act, in or before any Court or Tribunal in the said District of Three-Rivers, shall, as shall also all matters and proceedings incident or relative thereto or dependent thereon, be continued, completed, dealt with and considered as if the said part of the Township of Upton had not been detached from the said District.

Proviso: as to suits pending.





ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CXXXIII.

An Act to erect a new Township, to be formed out of part of the Township of Hatley and part of the Township of Bolton, in the County of Stanstead.

[25th April, 1849.]

WHEREAS it is expedient to form a new Township out of parts of the Townships of Bolton and Hatley, in the County of Stanstead: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That upon, from and after the second Monday in July next, all that part of the said Township of Hatley lying west of the line between the tenth and eleventh Ranges, shall be detached from the said Township and shall form part of a new Township hereby erected, and to be called the Township of Magog; and all that part of the said Township of Bolton lying east of the line between the thirteenth and fourteenth Ranges, and north of the line between lots numbers fourteen and fifteen in the several Ranges of the said Township, shall be detached from the said Township, and shall make part of the said new Township of Magog, which shall include and consist of the portions so detached from the said Townships of Bolton and Hatley.

Preamble.

Certain parts of Hatley and Bolton formed into a new Township.

II. And be it enacted, That nothing in this Act shall affect the seat of the Municipal Councillor for the Township of Hatley or for the Township of Bolton, who without this Act would remain in office after the said second Monday in July next, provided the Township for which he was elected be then entitled to return two Councillors; and that any debt due by either of the said Townships on the day last mentioned, shall be paid by the Township by which it was contracted as thereafter constituted, and not by the Township of Magog; and any taxes imposed for Township purposes, due on the said day on any property in the Township of Magog, shall be collected as if this Act had not been passed, and shall belong to that Township in which the property lay before the said day, and not to the Township of Magog.

Seats of certain Councillors not affected.

As to Debts.

As to Taxes.

III. And be it enacted, That the said Township of Magog, shall form part of the District of St. Francis, any thing in any Act to the contrary notwithstanding, but this shall

New Township to be in St. Francis District, &c.

shall not affect any suit or proceeding Civil or Criminal commenced before the passing of this Act which shall be continued and completed as if this Act had not been passed.

In what Bat-
talion of
Militia,

IV. And be it enacted, that the said Township of Magog shall form part of the Third Battalion Division of the Stanstead Regimental Division of Militia.

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ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CXXXIV.

An Act to enable the Sureties of the late Municipal Council of the Township of Hatley to enforce their claims against the said Township.

[30th May, 1849.]

WHEREAS Auldin Plumley, of the Township of Hatley, hath by his Petition to the Legislature, set forth that he, together with one Alphonso Burbank, became Sureties for the late Municipality of the said Township of Hatley, for the costs of certain actions in which judgment had been rendered by the Commissioner's Court for the Summary Trial of Small Causes, against the said Municipality, and from which said judgments the said Municipality did appeal to Her Majesty's Court of Queen's Bench for the District of St. Francis, sitting in Inferior Term, which appeal was by the said Court of Queen's Bench set aside for want of form, thereby rendering the said Auldin Plumley and Alphonso Burbank, as such Sureties, liable for the payment of the said costs, and actions were in consequence instituted against the said Auldin Plumley and Alphonso Burbank, as such Sureties, in which said actions judgment was obtained against them for the amount for which they had become Sureties; amounting with the costs of the said actions to the sum of one hundred and twenty-five pounds currency, and the said Auldin Plumley hath prayed relief in the premises; And whereas it appears that the said Alphonso Burbank hath suddenly departed from this Province, and the said Auldin Plumley hath thereby become solely responsible for the above mentioned amount; and in consequence of the said Municipality of the Township of Hatley having ceased to exist, the said Auldin Plumley hath no remedy at law for the recovery of the the said amount, and it is expedient to make Legislative provision to enable him to recover the same: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That at any time within twelve months from and after the passing of this Act, it shall be lawful for the Municipality of the County of Stanstead, and the said Municipality is hereby required and enjoined to levy by assessment on all assessable property within the said Township of Hatley, or in the tract of land which heretofore formed the said Township in whatever Township any part thereof may then be, (the owner, occupant or possessor whereof shall be known), and at such rate in the pound as shall be deemed necessary, a sum of money sufficient to pay the said sum of one hundred and twenty-five

Preamble:

Municipality of Stanstead to levy a sufficient sum on property in Hatley, to pay the amount for which A. Plumley, and A. Burbank are liable as sureties for the said Township.

twenty-five pounds currency, together with all the costs and expenses attending such assessment; of which said sum of money the said Municipality shall immediately apply so much as may be necessary to the satisfaction of the judgments rendered against the said Auldin Plumley and Alphonso Burbank as aforesaid, and to the payment of all such costs and expenses as may have been lawfully incurred; and such assessment shall and may be levied, notwithstanding any thing in the Act passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, and intituled, *An Act to make better provision for the establishment of Municipal Authorities in Lower Canada*; Provided always, that all and every sums of money of or belonging to the said late Township of Hatley, now or at any time hereafter to be in the hands, possession or power of the said Municipality of Stanstead or that may hereafter be levied of or from the said late Township of Hatley, shall be applied so far as the same shall or may extend to the liquidation and in discharge of the claims of the said Auldin Plumley and Alphonso Burbank herein before mentioned.

10 and 11 Vic.
c. 7.
Proviso.

Power of the
Municipality
to levy such
assessment.

II. And be it enacted, That the said Municipality of the County of Stanstead shall have the same powers for enforcing the payment of, or recovering the amount so assessed from the owners, occupants or possessors of the property upon which the said assessment shall have been imposed, within the said Township of Hatley or tract of land aforesaid, and all sums of money now or heretofore due and owing by the said late Township of Hatley or by any of the inhabitants thereof, as the said Municipality would have with respect to any assessment imposed under the said last mentioned Act.

Penalty on any
Councillors
refusing or
neglecting to
give effect to
this Act.

III. And be it enacted, That if the said Municipality of the County of Stanstead shall refuse or neglect to impose the said assessment or to apply the sum levied thereby to the purposes above mentioned, each Member of the Municipal Council of the said County in office while the assessment ought to have been imposed, or levied or applied, except such as shall show that he did all that the law enabled him to do towards imposing, levying and applying such assessment, and among other things by attending in his place and proposing, voting for and supporting the requisite and sufficient By-laws and Orders, shall personally incur a penalty of ten pounds currency, which shall be recoverable with costs by the said Auldin Plumley by Civil action in the Court of Queen's Bench for the said District of St. Francis, sitting in Inferior Term; Provided always, that all sums received by him for such penalties shall be applied to the satisfaction of the judgments and costs above mentioned, or to replace any moneys which the said Auldin Plumley may have paid in satisfaction thereof, and the surplus, of such penalty, if any, shall be returned in equal proportions to the said Councillors who may have paid such penalty; saving always such recourse as any Councillor who may have paid such penalty may by law have against any of his fellow Councillors who may not have paid the same, and which he shall be entitled to wage against such fellow Councillor aforesaid.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CXXXV.

An Act to constitute a new Township, to be called the Township of Elgin,
 out of part of the Township of Hinchinbrook.

[30th May, 1849.]

WHEREAS it is expedient to divide the Township of Hinchinbrook, in the County of Beauharnois, into two Townships, in the manner hereinafter provided: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the said Township of Hinchinbrook shall be and is hereby divided into two Townships to be called, respectively, the Township of Elgin and the Township of Hinchinbrook; and the said Township of Elgin shall include and consist of all that part of the now Township of Hinchinbrook, included within the following boundaries, that is to say: commencing at the point where the Trout River enters the River Chateauguay, thence proceeding along the line which divides the now Township of Hinchinbrook from that of Godmanchester, as far as the Province Line; thence eastward along the said Province Line, until it strikes the River Chateauguay; thence along the middle of the said last named River to the point of departure; and the Township of Hinchinbrook shall include and consist of all the remaining part of the now Township of Hinchinbrook.

Preamble.

Township of Hinchinbrook divided.

Boundaries of the new Township of Elgin,

and of Hinchinbrooke.

II. And be it enacted, That nothing herein contained shall affect the seat, powers or rights of any Municipal Councillor elected in the now Township of Hinchinbrook, until the second Monday in July next after the passing of this Act, but upon that day all the Councillors elected for the said Township shall go out of office, and Councillors shall be elected for the Townships of Elgin and Hinchinbrook, respectively, in the manner by law provided.

Seats of Councillors not to be affected until 2nd Monday in July, 1849.

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ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CXXXVI.

An Act to incorporate the Roman Catholic Archbishop and Bishops in each Diocese in Lower Canada.

[30th May, 1849.]

WHEREAS the Right Reverend Joseph Signay, Roman Catholic Archbishop of Quebec, the Right Reverend Ignace Bourget, Roman Catholic Bishop of Montreal, and the Right Reverend Joseph Eugène Bruno Guignes, Roman Catholic Bishop of Bytown, in this Province, have petitioned this Parliament to pass an Act incorporating the said Archbishop and Bishops severally, and enabling each to hold and acquire Real Estate in this Province for religious purposes; And whereas it is expedient to comply with the prayer of the said petition, and nothing but advantage can result therefrom, especially for Her Majesty's Roman Catholic subjects in Lower Canada: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the passing of this Act, the said Joseph Signay and his successors, being Archbishops of Quebec aforesaid, in communion with the Church of Rome, the said Ignace Bourget and his successors, being Bishops of Montreal aforesaid, in communion with the Church of Rome and the said Joseph Eugène Bruno Guignes and his successors, being Bishops of Bytown aforesaid, in communion with the Church of Rome, (for that part of that diocese which is situate in Lower Canada,) shall be, and are hereby declared to be, each respectively a body corporate, in his respective diocese aforesaid, in deed and in name, the said Joseph Signay and his successors, by the name of "The Roman Catholic Archiepiscopal Corporation of Quebec," the said Ignace Bourget and his successors, by the name of "The Roman Catholic Episcopal Corporation of Montreal," and the said Joseph Eugène Bruno Guignes and his successors, by the name of "The Roman Catholic Episcopal Corporation of Bytown," and that each of them and his successors as aforesaid shall, by his separate name as aforesaid, have perpetual succession and a common seal, and shall have power from time to time (by and with the advice of his chapter, his council, or other members of his clergy as hereinafter mentioned) to alter and renew or change such common seal at pleasure, and shall respectively, by his respective name as aforesaid, from time to time and at all times hereafter, be able and capable to have, hold, purchase,

Preamble.

R. C. Archbishop of Quebec, Bishop of Montreal, and Bishop of Bytown, respectively, constituted Corporations.

Corporate names.

Corporate powers.

Holding land.

Suing and being sued, &c.

Titles to land made by or to them to be void, unless registered.

Persons holding property in trust for the benefit of the Church may convey the same to these Corporations.

No such lands to be aliened except with the consent of certain Ecclesiastical Dignities.

Such consent to appear on the face of each Deed, &c.

purchase, acquire, possess and enjoy, for the general use or uses eleemosynary, ecclesiastical or educational, of the said church, or religious community, or of any portion of the same community within his district, any lands, tenements or hereditaments within the Province of Canada, and the same real estate or any part thereof from time to time (by and with the advice hereinafter mentioned) to sell or exchange, alienate, hypothecate, let, demise, lease, or otherwise dispose of, and in case of sale, to purchase other real estate in lieu of that sold with the proceeds or purchase money arising from such sale, and to hold and enjoy such newly purchased or exchanged estate or estates for the religious, eleemosynary, ecclesiastical or educational purposes aforesaid, or any or either of them, and by the same name respectively each of the said Archbishop and Bishops and his successors, shall and may be able and capable in law to sue and be sued, implead and be impleaded, answer and be answered, in all Courts of Law and Equity, and places whatsoever, in as large, ample and beneficial a manner as any other body corporate, or as any other person may or can in law or equity sue or be sued, implead or be impleaded, answer or be answered unto in any manner whatsoever.

II. And be it enacted, That all Deeds of any real estate, made and executed by or in favour of either of the said bodies corporate, (except leases for a term not exceeding nine years) shall be duly registered according to law, within six calendar months after the making and execution thereof, otherwise the same shall be void and of none effect; Provided always, That nothing herein contained shall be construed to give any greater effect in other respects to the registration of any such Deed within the said term of six months than is by law given to the registration of any other Deed of real estate in Lower Canada.

III. And be it enacted, That it shall be lawful for any person within either of the said Dioceses of Quebec, Montreal or Bytown, in whom, or in whose name any lands, tenements, or hereditaments, are now, or shall, or may be hereafter vested in trust or otherwise for the benefit of the said Roman Catholic Churches, or either of them, from time to time to convey, assign, or transfer by Deed, under his hand and seal, or by Notarial Deed, in the usual legal way, all or any of the same lands, tenements, and hereditaments unto the Archbishop or Bishop for the time being of the Diocese in which such real estate is situate, to be holden by the said Archbishop or Bishop and his successors for the purposes aforesaid, as provided by this Act.

IV. And be it enacted, That it shall not be lawful for either of the said Archbishop or Bishops, or for their successors, to make or execute any Deed, Conveyance, Lease, or Assignment of the whole or any part of the lands, tenements and hereditaments acquired or held, or to be hereafter acquired by him, under and by virtue of this Act, without the consent in writing of his Chapter or Council, or if there be neither Chapter nor Council in his diocese, of his Coadjutor and Senior Vicar-General, and in case there shall happen to be no Coadjutor or Vicar-General, or in case the said Coadjutor or Vicar-General, or either of them, should be incapacitated by sickness, infirmity, or any other cause, or shall happen to be necessarily absent at the time, then of two clergymen to be selected or named by the Archbishop or Bishop of each respective diocese; such selection or nomination, and such consent, to appear upon the face of the Deed or other Instrument in writing intended to be executed by the parties, and to be testified by the said Archbishop or Bishop, and his Chapter or Council, or Coadjutor and Senior Vicar-General, or such two clergymen as aforesaid being made parties

to, and signing, sealing, and delivering all the Deeds, Conveyances, Leases, Assignments or other Instruments, in the presence of two credible witnesses, or signing the same in the presence of two notaries, or of one notary and two witnesses, as consenting parties thereto respectively.

V. And be it enacted, That nothing in this Act contained shall extend or be construed to extend in any manner, to confer any spiritual jurisdiction or ecclesiastical rights whatsoever upon either of the said Archbishop or Bishops hereinbefore mentioned, or upon their successors or other ecclesiastical person of the said Church or Churches in communion with the Church of Rome aforesaid.

This Act not to confer any Spiritual or Ecclesiastical Jurisdiction.

VI. And be it enacted, That neither of the said Corporations hereby created shall have, hold, possess or enjoy lands and tenements or real estate in virtue of this Act, exceeding five thousand pounds in annual value at any time; and that each of them shall, at all times when called upon so to do by the Governor of this Province, render an account, in writing, of the property held by such Corporation under this Act, and of the income derived therefrom and the means by which the same has been acquired.

Annual value of property limited. Accounts to be rendered to the Governor.

VII. And be it enacted, That whenever it may be deemed expedient to erect any New Roman Catholic Diocese in Lower Canada, the Archbishop or Bishop of such New Diocese, and his successors, shall have the same powers and be subject to the same restrictions and limitations in respect thereof as are by this Act conferred and imposed upon the said Archbishop of Quebec, and Bishops of Montreal and Bytown respectively.

Provision for the incorporation of Archbishops or Bishops of new Dioceses.

VIII. And be it enacted, That during any vacancy which may occur in the said Archbishopric or Bishoprics respectively, or in case either of the said Archbishop or Bishops, or any Archbishop or Bishop of any New Diocese that may be erected as aforesaid, or their successors, shall from sickness, infirmity, or any other cause become incapable or be incapacitated to perform his duties in his Diocese, then his Coadjutor or the person administering the Diocese, shall have the same powers as are by this Act conferred upon the Archbishops and Bishops of the said Dioceses respectively.

Coadjutor to exercise corporate power in certain cases, &c.

IX. And be it enacted, That this Act shall not affect in any way the Incorporation created in favor of the said Archbishop of Quebec and his successors, by Her Majesty's Letters Patent, bearing date the twenty-ninth day of January, One thousand eight hundred and forty-five, nor the incorporation created in favor of the said Roman Catholic Bishop of Montreal by Her Majesty's Letters Patent, bearing date the seventeenth day of August, One thousand eight hundred and thirty-nine, which incorporations shall be, and remain distinct from those created by this Act.

Corporations created by Letters Patent not to be affected by this Act.

X. And be it enacted, That this Act shall extend only to Lower Canada, (except that the said corporate bodies may respectively acquire, hold and enjoy lands and hereditaments in any part of this Province for the purposes aforesaid,) and shall not in any wise extend to or affect Upper Canada.

This Act shall not extend to Upper Canada.

XI. And be it enacted, That the words "Lower Canada" wherever they occur in this Act, shall be understood to mean and include that part of the Province of Canada which formerly constituted the Province of Lower Canada; the words "Upper Canada" wherever

Interpretation of certain words.

wherever they occur in this Act, shall be understood to mean and include that part of the Province of Canada which formerly constituted the Province of Upper Canada; and all words in the singular number or masculine gender only shall be understood to comprehend several things of the same kind as well as one thing, and several persons as well as one person, and females as well as males, and bodies corporate as well as individuals, unless it is specially provided to the contrary, or there is something in the subject or context repugnant to such an interpretation.

Saving of Her
Majesty's
Rights, &c.

XII. And be it enacted, That nothing herein contained shall affect or be construed to affect in any manner or way the rights of Her Majesty, Her Heirs or Successors, or of any person or persons, or of any body politic or corporate, such only excepted as are hereinbefore mentioned and provided for.

Public Act.

XIII. And be it enacted, That this Act shall be deemed a Public Act, and shall be judicially taken notice of as such by all Judges, Justices of the Peace, and other persons whatsoever, without being specially pleaded.

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Law Printer to the Queen's Most Excellent Majesty.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CXXXVII.

An Act to incorporate *La Communauté des Sœurs de Ste. Croix*, in the Parish of St. Laurent, in the District of Montreal, for the purposes of Education.

[30th May, 1849.]

WHEREAS an Association of Religious Ladies hath existed for several years in the Parish of St. Laurent, in the County of Montreal, in the District of Montreal, under the name of *La Communauté des Sœurs de Ste. Croix*, for the instruction and education of young persons of the female sex, and hath instructed and educated a great number of young persons gratuitously, and others, at very moderate rates; And whereas the said Ladies have by their Petition prayed that the said Association may be incorporated, and in consideration of the great benefits which must arise from the Institution, it is expedient to grant their prayer: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That *Sœur Marie du Sauveur*, by birth *Aglæ Merineau de la Chaptais*; *Sœur Marie de Jésus mourant*, by birth *Renée David*; *Sœur Marie du Carmel*, by birth *Emélie Fortier*; *Sœur Marie Magdeleine*, by birth *Marie Goyer*; *Sœur M. de St. Augustin*, by birth *Zoé Boyer*, and such other persons as shall under the provisions of this Act, become Members of the said Institution, shall be, and are hereby declared to be a Body Politic and Corporate, in deed and in name, by the name of *La Communauté des Sœurs de Ste. Croix*, and by that name shall have perpetual succession and a Common Seal, and shall have power from time to time, to alter, renew or change such Common Seal at their pleasure, and shall, by the same name, from time to time, and at all times hereafter, be able and capable to purchase, acquire, hold, possess and enjoy, and to have, take and receive, to them and their Successors, to and for the uses and purposes of the said Corporation, any lands, tenements, and hereditaments, and real or immoveable property and estate, situate, lying and being within Lower Canada, not at any time exceeding in yearly value, the sum of two thousand pounds currency; and the same to sell, alienate and dispose of, and to purchase others in their stead, for the same purpose; and by the said name, shall and may be able and capable in Law, to sue and be sued, implead and be impleaded, answer and be answered unto, in all Courts of Law and places whatsoever, in as large, ample and beneficial a manner as any other Body Politic or Corporate, or as any persons able or capable, in Law, may or can

Preamble.

The members of the Institution incorporated.

Corporate name and powers.

Holding real property.

Suing and being sued.

Making By-laws,

can sue and be sued, implead and be impleaded, answer and be answered unto, in any matter whatsoever; and any majority of the Members of the Corporation for the time being, shall have power and authority to make and establish such Rules, Orders and Regulations, not being contrary to this Act, nor to the Laws in force in Lower Canada, as shall be deemed useful or necessary for the interests of the said Corporation, and for the management thereof, and for the admission of Members into the said Corporation, and from time to time, to alter, repeal and change the said Rules, Orders and Regulations, or any of them, or those of the said Institution in force at the time of the passing of this Act; and shall and may do, execute and perform all and singular, other the matters and things relating to the said Corporation, and the management thereof, or which shall or may appertain thereto; subject, nevertheless, to the Rules, Regulations, stipulations and provisions hereinafter prescribed and established.

To what purposes the revenue of the Corporation shall be applied.

II. Provided always, and be it enacted, That the rents, revenues, issues and profits of all property real or personal held by the said Corporation, shall be appropriated and applied solely to the maintenance of the Members of the Corporation, the construction and repair of the buildings requisite for the purposes of the said Corporation, and to the advancement of education, and the payment of expenses to be incurred for objects legitimately connected with, or depending on the purposes aforesaid.

Property of the present Association vested in the Corporation, &c.

III. And be it enacted, That all and every the estate and property, real and personal, belonging to or hereafter to be acquired by the said Members of the said Association as such, and all debts, claims and rights whatsoever due to them in that quality, shall be and are hereby vested in the Corporation hereby established; and the Rules, Orders and Regulations now made, or to be made for the management of the said Association, shall be and continue to be the Rules, Orders and Regulations of the said Corporation until altered or repealed in the manner herein provided.

Corporation may appoint Attorneys, Officers, &c.

IV. And be it enacted, That the Members of the said Corporation for the time being, or a majority of them, shall have power to appoint such Attorney or Attorneys, Administrator or Administrators of the property of the Corporation, and such Officers and Teachers, and Servants of the said Corporation, as shall be necessary for the well conducting of the business and affairs thereof, and to allow to them such compensation for their services respectively as shall be reasonable and proper; and all Officers so appointed shall be capable of exercising such other powers and authority for the well governing and ordering of the affairs of the said Corporation, as shall be prescribed by the Rules, Orders and Regulations of the said Corporation.

Members not to be individually liable.

V. And be it enacted, That nothing herein contained shall have the effect or be construed to have the effect of rendering all or any of the said several persons hereinbefore mentioned, or all or any of the Members of the said Corporation, or any person whatsoever individually liable or accountable for or by reason of any debt, contract or security incurred or entered into for or by reason of the Corporation, or for, or on account, or in respect of any matter or thing whatsoever relating to the said Corporation.

Rights of the Crown saved.

VI. And be it enacted, That nothing herein shall affect or be construed to affect, in any manner or way, the rights of Her Majesty, Her Heirs or Successors, or of any person or persons, or of any Body Politic or Corporate, such only excepted as are hereinbefore mentioned and provided for.

VII.

VII. And be it enacted, That the said Corporation shall make annual returns to both Houses of the Legislature, stating the names of the Members, number of Scholars, and the general state of the endowment and Corporation; which said Returns shall be presented within the first twenty days of the sitting of the Legislature.

Corporation to
make annual
Returns to the
Legislature.

VIII. And be it enacted, That this Act shall be deemed to be a Public Act, and shall be judicially taken notice of as such by all Judges, Justices of the Peace, and other persons whatsoever, without being specially pleaded.

Act to be a
Public Act.

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ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CXXXVIII.

An Act to incorporate *Les Sœurs de Miséricorde pour la régie de l'Hospice de la Maternité de Montréal.*

[30th May, 1849.]

WHEREAS an Association of Religious Ladies hath existed for several years in the City of Montreal, under the name of *Les Sœurs de Miséricorde pour la régie de l'Hospice de la Maternité de Montréal*, for the establishment of a Lying-in Hospital, in the said City; And whereas the said Ladies have, by their petition, prayed that the said Association may be incorporated, and in consideration of the great benefits which must arise from the said Institution, it is expedient to grant their prayer: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted, by the authority of the same, That *Sœur Jeanne Françoise de Chantal*, by birth *Marie Joseph Malo*; *Sœur St. François de Sales*, by birth *Marguerite Gagnon*; *Sœur Ste. Marie*, by birth *Aglæ Lauzon*; *Sœur St. Joseph*, by birth *Justine Filion*; *Sœur St. Jean Chrysostôme*, by birth *Sophie Desmarais*; *Sœur de la Nativité*, by birth *Rosalie Cadrau*; *Sœur Ste. Beatrix*, by birth *Luce Benoit*; *Sœur Marie des Sept Douleurs*, by birth *Luce Courtim*; *Sœur Marie de Bonsecours*, by birth *Sophie Bibaud*, and *Sœur St. Jean l'Evangeliste*, by birth *Marie Angélique Levêque*, and such other persons as shall, under the provisions of this Act, become members of the said Institution, shall be and are hereby declared to be a Body Politic and Corporate, in deed and in name, by the name of *Les Sœurs de Miséricorde pour la régie de l'Hospice de la Maternité de Montréal*, and by that name shall have perpetual succession and a Common Seal, and shall have power from time to time to alter, renew or change such Common Seal at their pleasure, and shall, by the same name, from time to time and at all times hereafter, be able and capable to purchase, acquire, hold possess and enjoy, and to have, take and receive, to them and their successors to and for the uses and purposes of the said Corporation any lands, tenements, and hereditaments, and real or immoveable property and estate, situate, lying and being within Lower Canada not exceeding at any time in yearly value the sum of two thousand pounds currency; and the same to hypothecate, sell, alienate and dispose of, and to purchase others in their stead, for the same purpose; and by the said name shall and may be able and capable in law, to sue and be sued, implead and

Preamble.

Certain persons and their successors incorporated.

Corporate name and powers.

Holding real property.

Suing and being sued.

and be impleaded, answer and be answered unto, in all Courts of Law and places whatsoever, in as large, ample and beneficial a manner as any other body politic or corporate, or as any persons able or capable in law, may or can sue and be sued, implead and be impleaded, answer and be answered unto, in any matter whatsoever; and any majority of the members of the Corporation for the time being, shall have power and authority to make and establish such rules, orders and regulations, not being contrary to this Act, nor to the laws in force in Lower Canada, as shall be deemed useful or necessary for the interests of the said Corporation, and for the management thereof, and for the admission of members into the said Corporation, and from time to time, to alter, repeal and change the said rules, orders and regulations, or any of them, or those of the said Institution in force at the time of the passing of this Act; and shall and may do, execute and perform all and singular, other the matters and things relating to the said Corporation, and the management thereof, or which shall or may appertain thereto; subject, nevertheless, to the Rules, Regulations, stipulations and provisions hereinafter prescribed and established.

Making By-laws.

To what purposes the revenue of the Corporation shall be applied.

II. Provided always, and be it enacted, That the rents, revenues, issues and profits of all property real or personal held by the said Corporation shall be appropriated and applied solely to the maintenance of the Members of the Corporation, the construction and repair of the buildings requisite for the purposes of the said Corporation, and the payment of the expenses to be incurred for objects legitimately connected with or depending on the purposes aforesaid.

Property of the present Association vested in the Corporation, &c.

III. And be it enacted, That all and every the estate and property real and personal belonging to or hereafter to be acquired by the Members of the said Association as such, and all debts, claims and rights whatsoever, due to them in that quality, shall be and are hereby vested in the Corporation hereby established; and the Rules, Orders and Regulations now made or to be made for the management of the said Association, shall be and continue to be the Rules, Orders and Regulations of the said Corporation until altered or repealed in the manner herein provided.

Corporation may appoint Attorneys, Officers, &c.

IV. And be it enacted, That the members of the said Corporation for the time being or a majority of them, shall have power to appoint such Attorney or Attorneys, Administrator or Administrators of the property of the Corporation, and such officers and teachers and servants of the said Corporation as shall be necessary for the well conducting of the business and affairs thereof, and to allow to them such compensation for their services respectively as shall be reasonable and proper; and all Officers so appointed shall be capable of exercising such other powers and authority for the well governing and ordering of the affairs of the said Corporation as shall be prescribed by the Rules, Orders and Regulations of the said Corporation.

Members not to be individually liable.

V. And be it enacted, That nothing herein contained shall have the effect or be construed to have the effect of rendering all or any of the said several persons hereinbefore mentioned, or all or any of the members of the said Corporation, or any person whatsoever, individually liable or accountable for or by reason of any debt, contract or security incurred or entered into for or by reason of the Corporation, or for or on account or in respect of any matter or thing whatsoever relating to the said Corporation.

VI. And be it enacted, That nothing herein shall affect or be construed to affect, in any manner or way, the rights of Her Majesty, Her Heirs or Successors, or of any person or persons, or of any body politic or corporate, such only excepted as are hereinbefore mentioned and provided for. Rights of the Crown saved.

VII. And be it enacted, That the said Corporation shall make annual Returns to both houses of the Legislature stating the names of the Members, number of persons relieved, and the general state of the endowment and Corporation; which said Returns shall be presented within the first twenty days of the sitting of the Legislature. Corporation to make yearly Returns to the Legislature.

VIII. And be it enacted, That this Act shall be deemed to be a Public Act, and shall be judicially taken notice of as such by all Judges, Justices of the Peace, or other person whatsoever, without being specially pleaded. Public Act.

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Law Printer to the Queen's Most Excellent Majesty.





ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CXXXIX.

An Act to authorize the Religious Community of the *Sœurs Hospitalières de St. Joseph de l'Hôtel-Dieu de Montréal*, to acquire and hold real and personal property to a certain amount, over and above that now held by them, as well for themselves as for the Poor of the *Hôtel-Dieu*, on whose behalf they administer certain Property, and for other purposes therein mentioned.

[30th May, 1849.]

WHEREAS the Superior, the Assistant, and the other Religious Ladies of the Community of the *Religieuses Sœurs Hospitalières de St. Joseph de l'Hôtel-Dieu de Montréal*, forming the Council of the said Community, have by their Petition to the Legislature prayed that the said Community may be empowered to acquire and hold, as well on their own behalf as on behalf of the Poor of the *Hôtel-Dieu*, the property whereof they have administered for more than a Century,—property to a certain amount over and above that which they now hold either on their own behalf or on that of the Poor, for whom they administer the same as aforesaid: And whereas by reason of the great utility of the said Institution, it is expedient to grant the prayer of the said Petitioners: Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall be lawful for the Superior of the said Community and her Successors in office to acquire and take by donation, devise or otherwise, and to hold for the use of the said Community, by the name of the *Religieuses Sœurs Hospitalières de St. Joseph de l'Hôtel-Dieu de Montréal*, and also to acquire and take by donation, devise or otherwise, and to hold for the use of the Poor of the *Hôtel-Dieu* aforesaid, by the name of the *Religieuses Sœurs Hospitalières de St. Joseph de l'Hôtel-Dieu de Montréal, Administratrices du bien des Pauvres du dit Hôtel-Dieu*, and according to the Rules and Regulations of the said Institution, all and every kind of real property lying in Lower Canada, or *constituts* or *rentes foncières* secured upon such property, and all sums of money in the public funds of the United Kingdom, or secured by Debentures upon the public revenue of this Province, and all other kinds of property whatsoever,—so that the total fixed and permanent revenue arising from such property do not at any time exceed three thousand pounds

Preamble.

The Superior may in the name of the Community acquire property for the Community—and for the Poor of the *Hôtel-Dieu*.

Amount of property to be held under

currency

this Act, for
the Commu-
nity—

and for the
said Poor.

Power to sell,
&c. and ac-
quire other
property.

Amount of
property li-
mited, as
aforesaid.

Community
may sue and
be sued under
certain names.

Deeds, how
executed.

Community to
render ac-
counts when
required.

Public Act.

currency per annum, over and above the fief St. Joseph, situate in the Parish of Montreal, in the possession of the said Community from time immemorial, the Land and Buildings held by the said Community in the City of Montreal, comprising their establishment, and a lot of Land situate at Côte à Baron in the said Parish of Montreal, known as *Terre de la Providence*, belonging to the said Community, and all other property in the possession of the said Community,—and so that the fixed and permanent revenue derived therefrom do not exceed in the whole five thousand pounds currency per annum, over and above the fiefs Nazareth and St. Augustin, held by the said Community for and on behalf of the Poor of the *Hôtel-Dieu* from time immemorial, a lot of land situate at Pointe St. Charles in the Parish of Montreal, near the Lachine Canal, known as *Terre St. Augustin*, and another lot of land situate in the Parish of La Prairie de la Magdeleine, also held by the said Community for and on behalf of the said Poor, and all other property held by the said Community for and on behalf of the Poor aforesaid; and to sell and alienate the said property whether acquired before or after the passing of this Act, and whether held for their own use or for the use of the Poor, and to purchase and acquire in the stead and place thereof, any other property of what kind soever; provided the total yearly revenue of the property so acquired at any time by the said Community for their own use by virtue of this Act, shall not at any time exceed the said sum of three thousand pounds currency, and that the total yearly revenue of the property so acquired at any time by the said Community for the use of the Poor aforesaid by virtue of this Act, shall not any time exceed the said sum of five thousand pounds currency; any thing in the laws commonly called the Laws of Mortmain, or in any other law or statute, to the contrary notwithstanding.

II. And be it enacted, That the said Community may at any time hereafter sue and be sued in or before any Court of Justice in this Province, by the name of *Les Religieuses Sœurs Hospitalières de St. Joseph de l'Hôtel-Dieu de Montréal*, with regard to all matters and things relating to or concerning the property or rights belonging to the said Community in their own behalf and for their own use; and by the same name with the addition of the words *Administratrices du bien des Pauvres du dit Hôtel-Dieu*, with regard to all matters and things relating to or concerning the property or rights now belonging or which may hereafter belong to the Poor of the *Hôtel-Dieu* aforesaid, or be held for their use; and that in all Deeds and Contracts which shall be hereafter passed by the said Community, whether on their own behalf or on behalf of the Poor of the *Hôtel-Dieu*, the Superior of the said Community then in office shall represent the said Community, and her signature alone shall be required to the said Deeds and Contracts.

III. And be it enacted, That the said Community shall and they are hereby required to render to the Governor General of this Province, when required so to do, a detailed statement of the real estate acquired by them under the authority of this Act, and the annual income thereof.

IV. And be it enacted, That this Act shall be deemed a Public Act, and shall be judicially taken notice of as such by all Judges, Justices of the Peace and all others without being specially pleaded.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CXL.

An Act to authorize the Community of the Nuns of the General Hospital of Quebec, to acquire and hold additional Real and Personal property to a certain amount.

[25th April, 1849.]

WHEREAS the Superior, the Assistant and other Professed Nuns of the Community of the General Hospital of Quebec, forming the Council of the said Community, have, by their Petition, prayed that the said Community may be empowered to acquire and hold property to a certain amount over and above that which they now possess; And whereas by reason of the great usefulness of the said Institution, it is expedient to grant the prayer of the said Petition: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall be lawful to and for the said Superior, Assistant, and other Professed Nuns, forming the Council of the said Community, and their Successors in office, to acquire and receive by donation, devise, bequest or otherwise, and to hold for the use of the said Community by the name of *The Community of the Nuns of the General Hospital of Quebec*, and according to the Rules and By-laws of that Institution, any kind of Real property whatever lying within Lower Canada or any annual and constituted rents (*rentes constituées*) or ground rents (*rentes foncières*) secured upon any such property or any sums of money in the Public Funds of the United Kingdom, or secured by debentures on the Public Revenue of this Province, or any other species of property whatsoever in Lower Canada, producing in the whole a fixed and permanent income not exceeding two thousand pounds currency, per annum, over and above all property legally held by or for the use of the said Community at the time of the passing of this Act, and to sell or alienate the said property (as well such as they now hold as such as they may hereafter acquire) and to purchase and acquire other property of what kind soever in lieu thereof in Lower Canada, provided the whole amount of income derived from the property to be so held at any one time under the authority of this Act, shall not at any one time exceed the said sum of two thousand pounds currency; any thing in the laws commonly called the "*Laws of Mortmain*," or in any Act or Law to the contrary notwithstanding.

Preamble.

The Community may hold property to the yearly value of £2,000 over and above that now held by them.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CXLI.

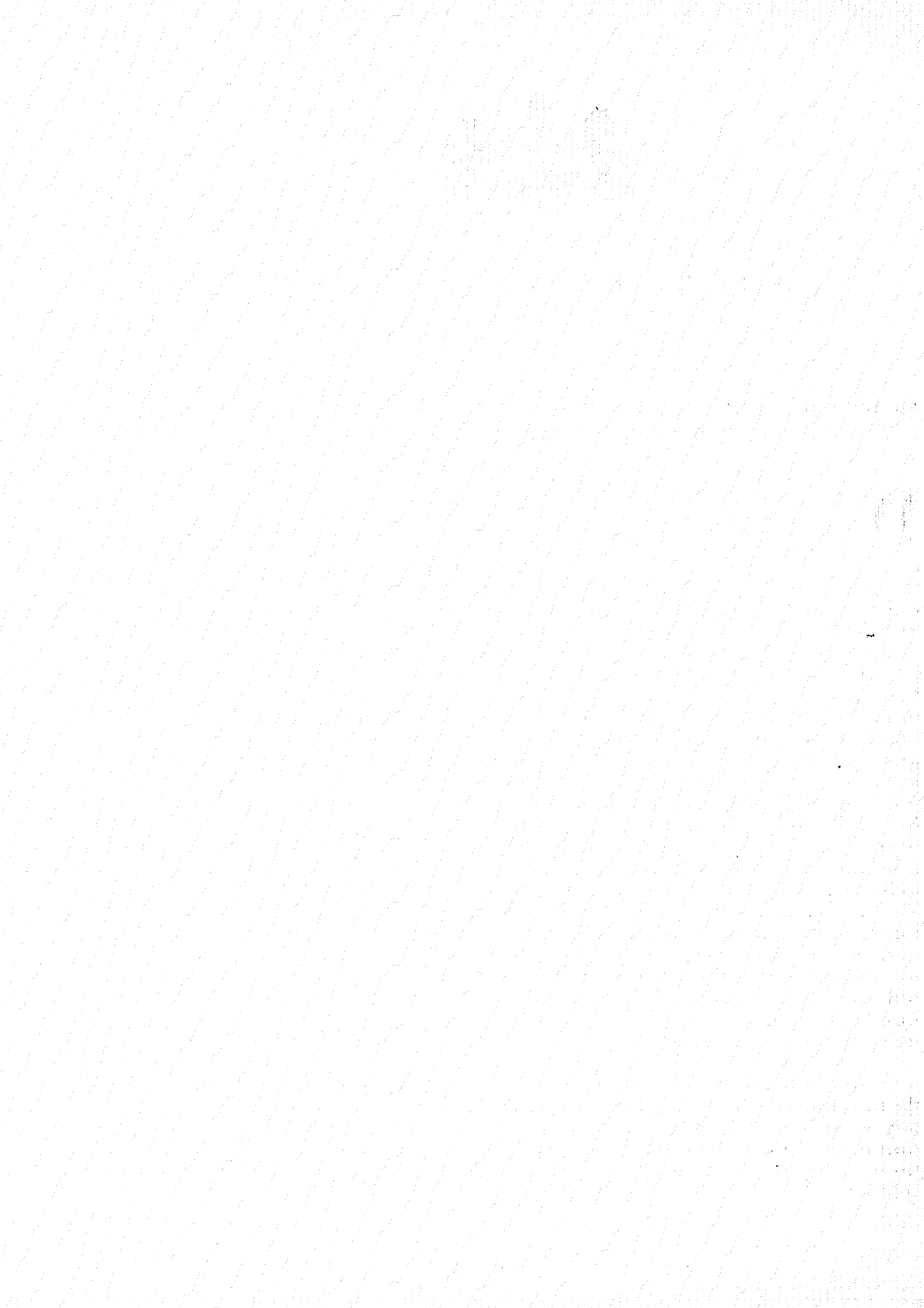
An Act to authorize the Ursulines of Quebec to acquire and hold additional Real and Personal Property to a certain amount.

[25th April, 1849.]

WHEREAS the Superior, the Assistant, and other professed Nuns of the Convent of the Ursuline Nuns of Quebec, forming the Council of the said Convent, have by their petition prayed that they may be empowered to acquire and hold property to a certain amount over and above that which they now possess; And whereas, by reason of the great usefulness of the said institution, it is expedient to grant the prayer of the said petition: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall be lawful to and for the said Superior, Assistant and other professed Nuns forming the Council of the said Convent, and their successors in office, to acquire and receive by donation, devise, bequest, or otherwise, and to hold for the use of the said Convent, by the name of "the Ursulines of Quebec," and according to the Rules and By-laws of that Institution, any kind of real property whatever lying within Lower Canada, or any annual constituted rents (*rentes constituées*), or ground rents (*rentes foncières*) secured upon any such property, or any sums of money in the public funds of the United Kingdom, or secured by debentures on the public revenue of this Province, or any other species of property whatsoever in Lower Canada, producing in the whole a fixed and permanent income not exceeding two thousand pounds currency per annum, over and above all property legally held by or for the use of the said Convent at the time of the passing of this Act; and to sell or alienate the said property, (as well such as they now hold, as such as they may hereafter acquire,) and to purchase and acquire other property of what kind soever in lieu thereof in Lower Canada; provided the whole amount of income derived from the property to be so held at any one time, under the authority of this Act, shall not at any one time exceed the said sum of two thousand pounds currency; any thing in the laws commonly called the Laws of Mortmain, or in any Act or Law to the contrary notwithstanding.

Preamble.

The Community empowered to hold property to the yearly value of £22,000 over and above that now held by them.





ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CXLII.

An Act to incorporate the Association called *La Congrégation des Hommes de la Paroisse de Saint Roch de Québec.*

[30th May, 1849.]

WHEREAS an Association hath existed for several years in the Parish of St. Roch of Quebec in this Province, under the name of *La Congrégation de Notre Dame de Saint Roch de Québec* or *La Congrégation des Hommes de la Paroisse de Saint Roch de Québec*, the object whereof is religious, and tends to the encouragement of morality and the practice of charity; And whereas the said Association is composed of the persons hereinafter named, and others, who have set forth by their Petition, that the incorporation of the said Association would increase and secure the advantages resulting therefrom, and have prayed that they and their Successors may be incorporated in conformity with the regulations and provisions hereinafter mentioned: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That George Thomas dit Bigaouette, Gabriel Lapointe, Narcisse Valin, Félix E. Juneau, Joseph Picard, François Girard, Joseph Pelchat, Antoine Légaré, Nicolas Juneau, J. O. Laberge, Honoré Giroux, Joseph Villeneuve, and such other persons as now are or shall under the provisions of this Act and the By-laws of the said association be or become Members thereof, shall be, and they are hereby constituted a Corporation under the name of *La Congrégation des Hommes de la Paroisse de St. Roch de Québec*, and shall be entitled to acquire, hold, possess, take and receive, for the purposes of the said Corporation, any lands, tenements or hereditaments, and real or immoveable property, lying within this Province, not exceeding in yearly value the sum of One thousand pounds currency, and the same to sell, alienate and dispose of, and acquire others in their stead for the purposes above mentioned.

Preamble:

Certain persons incorporated.

Corporate name and powers.

II. And be it enacted, That all and every the estate, real and personal belonging to the said Association, and which the said Association or the Members thereof as such may hereafter acquire, and all debts, claims and demands due to the said Association shall be and they are hereby vested in the said Corporation hereby constituted, and the said Corporation shall be liable for all debts due by or claims against the said Association.

Property and liabilities of the association transferred to the Corporation.

Present By-laws and Officers continued until altered.

III. And be it enacted, That the By-laws, Rules and Regulations of the said Association in force at the time of the passing of this Act, shall be and continue to be the By-laws, Rules and Regulations of the said Corporation until modified, altered or repealed by the said Corporation ; and the Officers of the said Association at the time of the passing of this Act and each of them, shall continue to fulfil their respective duties as Officers of the said Corporation, and to manage and conduct the affairs thereof, until others shall be appointed in their stead, under the said By-laws, Rules and Orders.

Public Act.

IV. And be it enacted, That this Act shall be a Public Act.

MONTREAL: Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty,



ANNO DUODECIMO

VICTORIÆ REGINÆ.

CAP. CXLIII.

An Act to incorporate *Les Révérends Pères Oblats de l'Immaculée Conception de Marie*, in the Province of Canada.

[30th May, 1849.]

WHEREAS an Association of Ecclesiastics hath existed for several years in the Province of Canada, under the name of *Les Révérends Pères Oblats de l'Immaculée Conception de Marie*, having for its object the establishing of missions, procuring Instruction and Education, erecting and conducting Hospitals for indigent sick persons; And whereas the said *Révérends Pères Oblats*, have by the Petition presented in their name by the Reverend Father Jean Claude Léonard, one of their Body, prayed that the said Association may be incorporated; And whereas, in consideration of the great benefits which must arise from the Institution, it is expedient to grant their prayer: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the Reverend Fathers Joseph Eugène, Bishop of Bytown, the said Jean Claude Léonard, Damase Dandurand, John Ryan, M. Molloy, and such other persons being natural born or naturalized subjects of Her Majesty as may be now or may hereafter become under the provisions of this Act, Members of the said Institution, shall be and are hereby declared to be a Body Politic and Corporate in deed and in name by the name of *Les Révérends Pères Oblats de l'Immaculée Conception de Marie*, and by that name shall have perpetual succession and a Common Seal, with power to change, alter, break or renew the same when and as often as they may think proper, and shall by the same name, at all times hereafter be able and capable to purchase, acquire, hold, possess and enjoy, and to have, take, and receive to them and their Successors, to and for the uses and purposes of the said Corporation under any legal title whatsoever, and without any further authorization or letters of Mortmain, any lands, tenements and hereditaments, moveable and immoveable property situate, lying and being within this Province, not exceeding in yearly value the sum of two thousand pounds currency of this Province, and the same to sell, alienate and dispose of, and to purchase acquire and possess others in their stead for the said purposes; and by the same name shall and may be able and capable in law, to sue and be sued, implead and be impleaded, answer and be answered unto in all Courts of Law and places whatsoever, in as large, ample and beneficial a manner as any other Body Politic or Corporate, or as any persons able or capable

Preamble.

Members of the Association, &c. incorporated.

Corporate name and powers.

Amount of property limited.

capable in law may or can sue and be sued, implead and be impleaded, answer and be answered unto, in any manner whatsoever, and the service of any summons or process made at the domicile of any one of the said Members of the Corporation in any one of their establishments wherein two or more of the said Members may reside, shall be a valid service thereof, upon the said Corporation; and the said Corporation shall have full power and authority to make and establish such By-laws, Rules, Orders and Regulations, not being contrary to this Act nor to the Laws in force in this Province, as shall be deemed useful and necessary for the interests of the said Corporation and for the management thereof, and of the affairs and property of the said Corporation and for the admission of Members into, or their removal from the said Corporation, and for their qualification and for all other purposes having for their object the promotion of the welfare and interests of the said Corporation, and from time to time to amend, alter or repeal the said By-laws, Rules, Orders and Regulations or any of them, in such manner as the said Corporation may deem meet and expedient.

By-laws for certain purposes.

The Corporation may appoint Attorneys.

II. And be it enacted, That the said Corporation shall also have power to appoint, if they think fit, one or more Attorneys for the purpose of conducting the affairs of the said Corporation, and shall, generally, enjoy all the rights and privileges enjoyed by other legally Incorporated Bodies in this Province.

The rents, &c. to be applied to certain purposes.

III. And be it enacted, That the rents, revenues, issues and profits of all property, real or personal, moveable or immoveable, held by the said Corporation, shall be appropriated and applied solely to the maintenance of the Members of the said Corporation, the construction and repair of the buildings requisite for the purposes of the said Corporation, and the payment of the expenses incurred for objects legitimately connected with or depending on the purposes aforesaid.

As to real property bequeathed or given to the Corporation, in case of its dissolution.

IV. And be it enacted, That if the said Corporation, shall from any cause whatsoever be dissolved, the moveable property which shall then be *en nature*, and the immoveable property and *rentes constituées* which shall have been given, devised or bequeathed to the said Corporation, or the immoveable property received in exchange for or purchased by means of the sale of the property so given, devised or bequeathed, and which shall be in possession of the said Corporation at the time of its dissolution, shall return to and belong to the legal Heirs of the person or persons respectively who shall have given, devised or bequeathed, such property to the said Corporation.

As to other property of the Corporation in such case.

V. And be it enacted, That in case of such dissolution of the said Corporation, the real property by them purchased and acquired and paid for out of their own revenues, and not by the sale or exchange of any property given, devised or bequeathed to them as well as all other property then belonging to the said Corporation, and not liable to be claimed by and revert to the Heirs of any Donor or Testator under the provisions of the next preceding section of this Act, shall be at the disposal of the Provincial Parliament for the purpose of being applied to the maintenance of some Charitable Institution, or to the Education of the Poor, in the Parish or Township in which such property shall be situate.

Conditions in Deeds of sale, &c. to the Corporation.

VI. And be it enacted, That no Deed of Sale or Conveyance by which the said Corporation shall purchase or acquire any real or immoveable property or annual rents (*rentes constituées*) shall be valid or effectual to any intent or purpose whatsoever, unless in

in such Deed it be stated and set forth that such purchase or acquisition is made with the funds of the said Corporation itself, or with funds arising from the sale or alienation of such and such property, describing the same, given, devised or bequeathed to the said Corporation by such and such person or persons, designating the same by name, or otherwise, as the case may be.

VII. And be it enacted, That it shall be the duty of the said Corporation at all times when they may be called upon so to do by the Governor of this Province, to render an account in writing of their property and affairs, in which shall be set forth in particular the income by them derived from property held under this Act and the means by which the same has been acquired.

Corporation to
account when
called upon.

VIII. And be it enacted, That no Member of the said Corporation shall be individually liable or accountable for the debts, contracts or securities of the said Corporation.

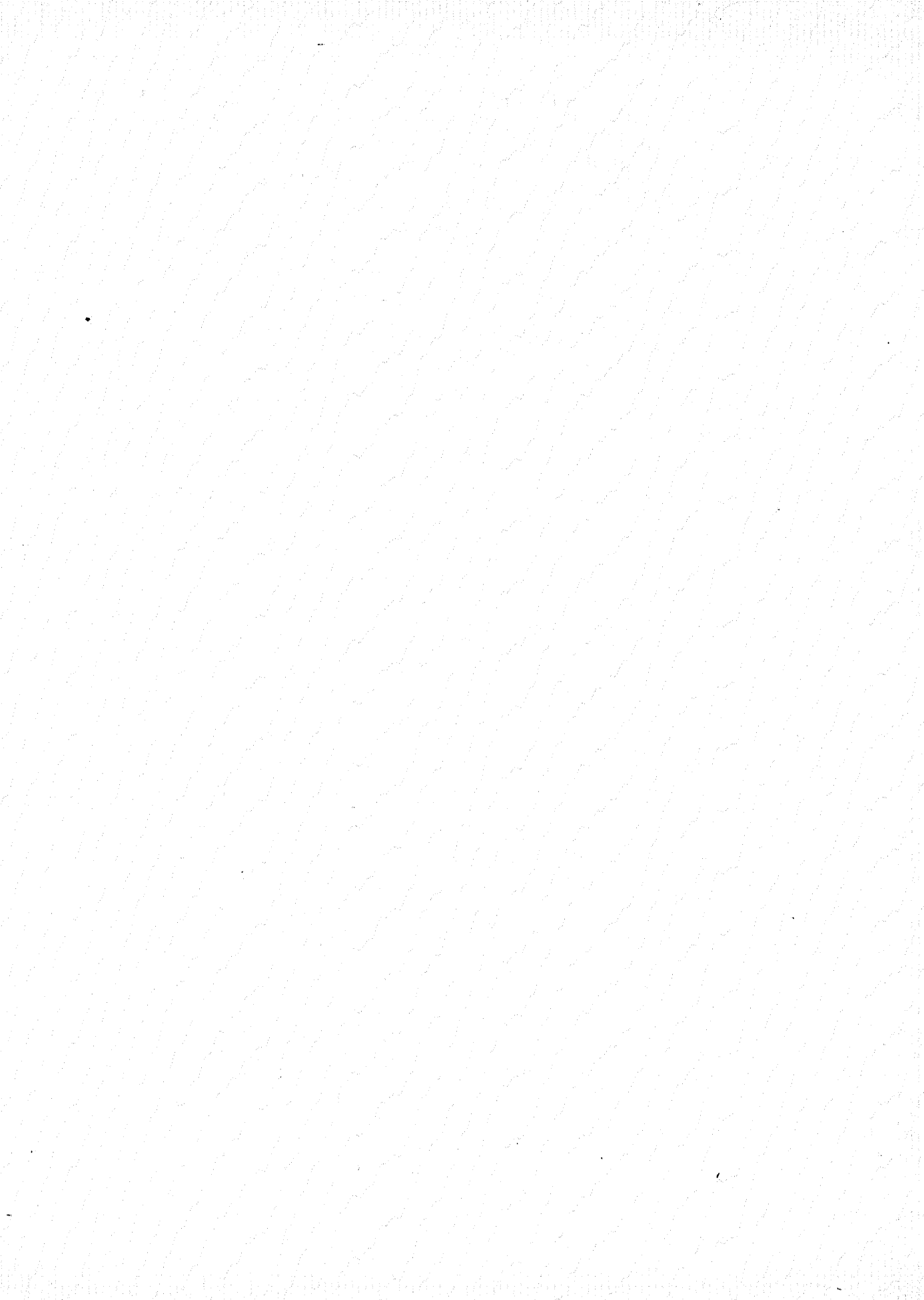
Members not
liable for the
debts of the
Corporation.

IX. And be it enacted, That nothing herein contained shall affect or be construed to affect in any manner or way, the Rights of Her Majesty, Her Heirs or Successors, or of any Body Politic or Corporate, such only excepted as are hereinbefore mentioned and provided for.

Rights of the
Crown, &c.
saved.

X. And be it enacted, That this Act shall be deemed a Public Act, and shall be publicly taken notice of as such by all Judges, Justices of the Peace, and other persons whomsoever, without being specially pleaded.

Public Act.





ANNO DUODECIMO

VICTORIÆ REGINÆ.

CAP. CXLIV.

An Act to incorporate *Les Clercs Paroissiaux ou Catéchistes de Saint Viateur*, in the Village of Industry, in the County of Berthier.

[25th April, 1849.]

WHEREAS an Association hath existed for several years in the Village of Industry, in the County of Berthier, under the name of *Les Clercs Paroissiaux ou Catéchistes de Saint Viateur*, for the instruction of young persons in the sciences, and in the elements thereof; And whereas the Members of the said Association have, by their petition, prayed to be incorporated, and, in consideration of the great benefits which must arise from the Institution, it is expedient to grant their prayer: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the Reverend François Thérèse Lahaye, Priest, Etienne Champagneur, Augustin Fayard, Louis Chrétien, Abraham Jacques Duhaut, Paschal Lajoie, Louis Langlais, Joseph Vadeboncœur, Octave Goudreault, Godefroy Lacas, and Gilbert Joly, the present officers and members of the said Association, and such other persons, being natural born subjects of Her Majesty, or naturalized according to law, as shall hereafter become members of the said Association according to the Rules and Regulations thereof and the provisions of this Act, shall be and they are hereby constituted and declared to be a body politic and corporate, in deed and in name, by the name of *Les Clercs Paroissiaux ou Catéchistes de Saint Viateur*, and by that name shall have perpetual succession and a common seal, and shall have power, from time to time, to alter, renew, or change such common seal at their pleasure, and shall, by the same name, from time to time, and at all times hereafter, be able and capable to purchase, acquire, hold, possess and enjoy, and to have, take and receive, to them and their successors, to and for the uses and purposes of the said Corporation, any personal or moveable property, and any lands, tenements, and hereditaments, and real or immoveable property and estate, situated, lying, and being within this Province, or annual rents, (*rentes constituées*) not exceeding in yearly value the sum of five thousand pounds currency, and the same to exchange, or to sell, alienate, and dispose of, and to purchase others in their stead, for the same purpose; and by the said name shall and may be able and capable in law to sue, and be sued, implead and be impleaded, answer and be answered unto, in all courts of law and places whatsoever,

Preamble.

Members of the Association incorporated.

Corporate name and powers.

Holding real property.

Suing and being sued.

Making By-laws.

whatsoever, in as large, ample, and beneficial a manner as any other body politic or corporate, or as any persons able or capable in law may or can sue and be sued, implead and be impleaded, answer and be answered unto, in any matter whatsoever; and any majority of the members of the Corporation for the time being, shall have power and authority to make and establish such by-laws, rules, orders and regulations, not being contrary to this Act, nor to the laws in force in this Province, as shall be deemed useful or necessary for the interests of the said Corporation, and for the management thereof, and for the admission of members into the said Coporation, and from time to time to alter, repeal, and change the said by-laws, rules, orders, and regulations, or any of them, or those of the said Association in force at the time of the passing of this Act; and shall, and may do, execute, and perform, all and singular other the matters and things relating to the said Corporation, and the management thereof, or which shall or may appertain thereto; subject, nevertheless, to the rules, regulations, stipulations and provisions hereinafter prescribed and established.

To what purposes the revenue of the Corporation shall be applied.

II. Provided always, and be it enacted, That the rents, revenues, issues and profits of all property real or personal held by the said Corporation, shall be expended within the Province of Lower Canada, and not elsewhere, and shall be appropriated and applied solely to the maintenance of the members of the Corporation, the construction and repair of the buildings requisite for the purposes of the said Corporation, and to the advancement of education by the instruction of young persons in the sciences and in the elements thereof, and the payment of the expenses to be incurred for objects legitimately connected with or depending on the purposes aforesaid.

Property of the Association vested in the Corporation, &c.

III. And be it enacted, That all and every the estate and property real and personal belonging to or hereafter to be acquired by the members of the said Association as such, and all debts, claims and rights whatsoever due to them in that quality shall be and are hereby vested in the Corporation hereby established; and the by-laws, rules, orders and regulations now made for the management of the said Association, shall be and continue to be the by-laws, rules, orders and regulations of the said Corporation until altered or repealed in the manner herein provided.

Corporation may appoint Attorneys, Officers, &c.

IV. And be it enacted, That the members of the said Corporation for the time being or a majority of them shall have power to appoint such Attorney or Attorneys, Administrator or Administrators of the property of the Corporation, and such officers and teachers and servants of the said Coporation, as shall be necessary for the well conducting of the business and affairs therof, and to allow to them such compensation for their services respectively as shall be reasonable and proper; and all officers so appointed shall be capable of exercising such other powers and authority for the well governing and ordering of the affairs of the said Corporation as shall be prescribed by the by-laws, rules, orders and regulations of the said Corporation.

Members not to be liable individually.

V. And be it enacted, That nothing herein contained shall have the effect, or be construed to have the effect, of rendering all or any of the said several persons hereinbefore mentioned, or all or any of the members of the said Corporation, or any person whatsoever individually liable or accountable for or by reason of any debt, contract or security incurred or entered into for or by reason of the Corporation, or for or on account or in respect of any matter or thing whatsoever relating to the said Corporation.

VI. And be it enacted, That if the said Corporation shall from any other cause whatsoever be dissolved, the moveable property which shall then be *en nature*, and the immoveable property and *rentes constituées* which shall have been given, devised or bequeathed to the said Corporation, or the immoveable property received in exchange for or purchased by any means of the sale of the property so given, devised or bequeathed, and which shall be in possession of the said Corporation at the time of its dissolution, shall return to and belong to the legal heirs of the person or persons respectively who shall have given, devised or bequeathed such property to the said Corporation.

As to property bequeathed or given to the Corporation, in case of its dissolution.

VII. And be it enacted, That in case of such dissolution of the said Corporation, the real property by them purchased and acquired and paid for out of their own revenues, and not by the sale or exchange of any property given, devised or bequeathed to them, as well as all other property then belonging to the said Corporation, and not liable to be claimed by and revert to the heirs of any donor or testator under the provisions of the next preceding section of this Act, shall be at the disposal of the Provincial Parliament, for the purpose of being applied to the maintenance of some charitable Institution, or to the education of the poor, in the parish in which such property shall be situate.

As to other property of the Corporation in such case.

VIII. And be it enacted, That no Deed of Sale or Conveyance by which the said Corporation shall purchase or acquire any real or immoveable property or annual rent, (*rentes constituées*) shall be valid or effectual to any intent or purpose whatsoever, unless in such Deed it be stated and set forth that such purchase or acquisition is made with the funds of the said Corporation itself, or with funds arising from the sale or alienation of such and such property, describing the same, given, devised or bequeathed to the said Corporation by such and such person or persons, designating the same by name or otherwise, as the case may be.

Certain particulars required in any Deed of sale to the Corporation.

IX. And be it enacted, That it shall be the duty of the said Corporation at all times when they may be called upon so to do by the Governor of this Province, to render an account in writing of their property and affairs, in which shall be set forth in particular the income by them derived from property held under this Act, and the means by which the same has been acquired; also the number of members of the said Corporation, the number of Teachers employed in the various branches of instruction, the number of Scholars under instruction, and the course of instruction pursued.

Corporation to account to the Governor when called upon.

X. And be it enacted, That nothing herein shall affect, or be construed to affect, in any manner or way, the rights of Her Majesty, Her Heirs or Successors, or of any person or persons, or of any body politic or corporate, such only excepted as are hereinbefore mentioned and provided for.

Rights of the Crown saved.

XI. And be it enacted, That this Act shall be deemed to be a Public Act, and shall be judicially taken notice of as such by all Judges, Justices of the Peace, and other persons whatsoever, without being specially pleaded.

Act to be a Public Act.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CXLV.

An Act to incorporate the *Library Association of the Teachers of the District of Quebec.*

[30th May, 1849.]

WHEREAS there hath existed at Quebec for several years, an Association known by the name of the *Teachers' Association of the District of Quebec*, founded for the purposes of union, mutual instruction and general progress; and for better attaining these purposes the members of the said Association have established a Library and Reading Room, and hold general Meetings every two months, at which they discuss by means of lectures, essays and debates, subjects adapted for the diffusion of instruction and the development of useful and practical knowledge among the inhabitants of the City of Quebec and its neighbourhood; And whereas Benoit Marquette, the President, Félix E. Juneau, Secretary, and Antoine Légaré, N. Juneau, J. Labranche, Benjamin Blumhart, François Fortin, François Toussaint, Antoine Pâquet, Edouard Lajeunesse, Charles Pâquet, Théophile Dufresne, F. X. Gilbert, Paul Thibodeau, J. Létourneau, Flavien Pâquet, Joseph Croteau, Abraham Jouvin, Edouard Dolbec, Charles Dion, Clément Cazeau and J. B. Dugal, members of the said Association, have set forth in their petition to the Legislature, that the said Association has been established for the purposes of union, mutual instruction and general progress, and that a great number of lectures and essays have, by its intervention, been given to the public; and have further represented that for the more readily and effectually attaining the objects for which the said Association was founded, it is necessary that it should be incorporated; And whereas it is expedient that the prayer of the Petitioners should be granted, subject nevertheless to the provisions hereinafter made: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the said officers and members, and all such other persons as are now or shall hereafter become members of the said Association, and their successors for ever, shall be and are hereby constituted a body politic and corporate by the name of the *Library Association of the Teachers of the District of Quebec*, and by that name shall have perpetual succession, and may have a common seal, if they deem it expedient to have one, which seal they may at their pleasure change or alter, and by the said name they may from time to time, and at all times, have, acquire and possess in any manner whatsoever, for them and their successors, and for the purposes of the said Corporation, any goods or property real or personal,

Preamble.

The officers and members of the Association incorporated.
Corporate name and powers.

Proviso.

personal, provided the annual revenue of such real property shall not exceed the sum of One hundred pounds currency of this Province, and shall and may by the same name be able and capable in law to sue and be sued, implead and be impleaded, answer and be answered unto in all Courts and places whatsoever in as large, ample and beneficial a manner and form as any other body politic or corporate, or any persons able and capable in law may or can sue, implead or answer, or be sued, impleaded or answered in any manner whatsoever.

How service of Process may be made on the Corporation.

II. And be it enacted, That in all suits and legal proceedings to be brought against the said Corporation, service of Process at the domicile of the Secretary of the Corporation, shall be sufficient service thereof for all purposes of law.

Officers of the Corporation.

III. And be it enacted, That the Officers of the said Corporation shall be a President, a Vice-President, a Secretary, a Treasurer, a Librarian, and a Managing Committee consisting of all the Officers of the Corporation and of six other Members.

When the officers shall be elected.

IV. And be it enacted, That the said Officers of the said Corporation, together with the members of the Managing Committee, shall be elected for one year only by the members of the Society, at the general meeting which shall be held on the first Saturday in September in each year; they may, however, be re-elected with their own consent; sufficient notice shall be given by the Secretary eight days before such election; Provided always, that, if the said election should not take place on the day hereinabove appointed for it, it may be had at any other subsequent regular meeting of the said Corporation specially called for this purpose by the President, or in his default, by the Vice-President.

Proviso.

V. And be it enacted, That the said Corporation may for its internal and external government, and for the management of its property, adopt such Constitution and make such By-laws as may be thought proper; and such Constitution shall not be annulled, altered or amended except at some meeting at which at least twenty members shall be present, and by two-thirds of the members present at such meeting; and any motion tending to annul, alter or amend any Article of such Constitution, shall be read at two consecutive meetings and decided upon at the last reading thereof, in addition to a notice of one week which shall be given before the first reading thereof; and no such By-law shall be annulled, altered or amended except at some meeting at which at least fifteen members shall be present, nor until after at least eight days previous notice: Provided always, that neither the said Constitution nor the said By-laws shall be repugnant to this Act or to the laws of Lower Canada.

Corporation may adopt a Constitution and make By-laws.

As to amendments to the same.

Proviso.

VI. And be it enacted, that the members of the said Corporation, whether they shall have become such before or after the passing of this Act, shall pay an annual contribution to be fixed by the By-laws of the Corporation, which contribution, if not duly paid, may be recovered in any Court of civil jurisdiction, in that part of this Province formerly the Province of Lower Canada.

Members to pay an annual contribution.

Public Act.

VII. And be it enacted, That this Act shall be held to be a Public Act, and as such shall be judicially noticed by all Judges, Justices of the Peace and others whom it may concern, without being specially pleaded.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CXLVI.

An Act to incorporate *L'Académie Industrielle de St. Laurent*, in the District of Montreal.

[30th May, 1849.]

WHEREAS it hath been represented to the Legislature of the Province by the Reverend Jean Baptiste St. Germain, Rector of the Parish of St. Laurent, the Reverend Louis Augustin Vérité, the Reverend Jean Baptiste François Réfour, Léonard Aimé Duprez, and Louis Joseph Vermond, Members of an Association for affording primary instruction to young persons and for establishing Schools of Agriculture, Horticulture, and Arts and Trades, that it is necessary to provide for the endowment of the said Institution, and to establish it permanently by incorporating the Members thereof, and enabling it to hold Real Estate, the said Reverend Jean Baptiste St. Germain offering for that purpose to endow the said intended Corporation with fifty-one arpents of land in the Village of St. Laurent, on certain conditions, and according to the agreement to be made between him and the said Corporation; And whereas an Act incorporating the said Institution and enabling it to hold Real Estate as above mentioned, would conduce greatly to the progress of education in this country: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the the same, That there is hereby created and established in the said Parish of St. Laurent, a Body Politic and Corporate by the name of *La Corporation de l'Académie Industrielle de St. Laurent*, which Corporation shall consist of the present Rector (*Curé*) of the Parish of St. Laurent, and of the Reverend Louis Augustin Vérité and Jean Baptiste François Réfour, Léonard Aimé Desprez, and Louis Joseph Vermond, and of all such persons as shall regularly become Members of the said Corporation, provided the whole number of Members shall not exceed ten; and the said Corporation shall have perpetual succession and a Common Seal, with power to change, alter, break or renew the same, when and so often as to them shall seem meet; and the said Corporation may by the said name, sue and be sued, plead and be impleaded, answer and be answered unto in all Courts of Justice in this Province, and shall have power to make and establish such and so many By-laws, Rules and Regulations, not being inconsistent with the Laws of Lower Canada, as they shall deem useful and necessary, either with regard to the course of instruction in the branches of education aforesaid, or to the conduct and

Preamble.

Certain persons and their successors incorporated.

Corporate name.

Corporate powers.

and management of the said Corporation and the superintendence and improvement of the property thereof, moveable or immoveable ; and shall have power to acquire by any legal title of what nature soever, and to possess and hold for the said Corporation in Lower Canada without any further License or Letters of Mortmain, any lands or property real or personal which may be sold, ceded, exchanged, given, bequeathed or granted to the said Corporation, and the same to alienate if need shall be ; Provided always, that the net rents, revenues and proceeds of the property and possessions of the said Corporation shall not at any time exceed the sum of four thousand pounds, current money of this province per annum ; and the said Corporation shall also have power for the management of its affairs to appoint one or more Attorneys if it be deemed expedient so to do.

Proviso: Value of real estate limited, &c.

To what purposes the property of the Corporation shall be applied.

II. Provided always, and be it enacted, That all the property which shall at any time belong to the said Corporation, as well as all the revenues arising therefrom, shall at all times be exclusively applied and appropriated to the advancement of education in the several branches aforesaid, and for no other object, institution or establishment whatsoever.

Corporation to make annual returns to the Legislature.

III. And be it enacted, That the said Corporation shall make annual returns to both Houses of the Legislature, stating the names of the Members, number of Scholars, and the general state of endowment and Corporation ; which said returns shall be presented within the first twenty days of the sitting of the Legislature.

Public Act.

IV. And be it enacted, That this Act shall be deemed to be a Public Act by all Judges, Justices of the Peace and other Officers, and by all other persons whatsoever, who shall take notice thereof, without its being specially pleaded.

Rights of the Crown saved.

V. And be it enacted, That nothing in this Act shall extend to derogate from or affect any right or privilege of Her Majesty, Her Heirs or Successors, or of any person or persons, Body Politic or corporate, such only excepted as are herein expressly mentioned and affected.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CXLVII.

An Act to incorporate *The St. Patrick's Society of Quebec.*

[30th May, 1849.]

WHEREAS there hath existed for many years at the City of Quebec, a benevolent institution under the name of *The St. Patrick's Society of Quebec*, formed for the purpose of affording relief and advice to natives of Ireland and their descendents in this Province who may stand in need thereof, and to resident members who may become indigent: And whereas Joseph Power Bradley, President, and Paul Lepper and Thadeus Kelly, Vice-Presidents, Sir Henry J. Caldwell, Baronet, the Hon. Andrew Cochran, George H. Parke, Edward Ryan, William Power, Charles Gethings, John P. O'Meara, William Downes, James Dinning, Hugh Murray, James A. Pirrie, William Tims, John James Saurin, John Murray, Miles Kelly, Michael Connolly, John Doran, William Quinn, John M. Muckle, Charles McDonald, Edward George Cannon, Richard Charlton, and Thomas Gahan, Managers; Robert H. Russell, Peter D. Moffatt, John Fitzpatrick and Thomas McGrath, Physicians; George Hall, Treasurer, and Henry O'Connor, Secretary of the said Society, and members thereof, have by their Petition to the Legislature prayed that, for the better administration of the affairs of the said Society, and for the protection of its moneys and property, they may be invested with corporate powers, and by reason of the good effected by the said Society it is expedient to grant the prayer of the said Petition: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the persons hereinbefore named and such other persons as are now members of the said Society, or shall hereafter become members thereof under the provisions of this Act and the By-laws made or in force under the authority thereof, shall be and they are hereby constituted a body politic and corporate, by the name of *The St. Patrick's Society of Quebec*, and shall by that name have perpetual succession and a common seal, with power to change the same at pleasure, and may sue and be sued in all Courts of Law or Equity, and may acquire and hold personal property to any amount, and immoveable property not exceeding in yearly value of one thousand pounds currency, and may alienate the same and acquire other such property instead thereof, not exceeding the value aforesaid, and shall have such other powers as may be necessary to carry this Act into effect according to its true intent and meaning; and all property real and personal now belonging

Preamble.

Petition of certain persons to be incorporated.

The said persons and others, incorporated.

Corporate name and powers.

What property they may hold.

to the Society aforesaid, or held in trust for the said Society or for the use thereof, shall, after the passing of this Act, become the property of the Corporation hereby constituted; and all debts due to and obligations contracted in favour of the said Society, or any officer of the Society or other person acting on behalf thereof, shall from the same time be deemed to be due to and to have been contracted in favor of the said Corporation; and all debts due from and obligations contracted by the said Society or by any officer or person acting on behalf thereof, shall from the same time be deemed to be due from and to have been contracted by the said Corporation; and all such property, debts and obligations may be sued for, recovered and enforced, by or against the said Corporation; and any member of the said Society (not being personally interested in the suit) may be a witness for or against the said Corporation.

Property to be derived from certain sources

II. Provided always and be it enacted, That the said Corporation shall have no power to hold any property, nor shall any property be held in trust for them or for their use, except such as shall be derived from the following sources, or purchased with funds derived from such sources, that is to say: The property of the Society hereby transferred to the said Corporation; the admission fees of ordinary members, which shall in no case exceed five shillings each member; the life subscription of members, which shall in no case be less than five pounds for each; the annual subscription of members for the general purposes of the Corporation, which shall in no case exceed the rate of five shillings per annum; donations, bequests or legacies made to the said Corporation; voluntary contributions for particular purposes; and the moneys arising from fines and forfeitures lawfully imposed by the By-laws: And provided also, that the property and funds of the said Corporation, that is to say, the amount of the permanent fund of the said Society, hereby transferred to the said Corporation, and all sums which shall hereafter be received by the said Corporation for life subscriptions of members, or from legacies, bequests or donations not specially made for other purposes, shall constitute the permanent fund of the Corporation, no part of the capital amount of which shall be expended or paid away, but the whole shall from time to time be invested in real or immoveable property (not exceeding the value aforesaid) in bank stock or provincial or other securities, and the rents, interest or other income arising from such investments, together with the moneys derived by the said Corporation from all sources, (voluntary contributions for particular purposes excepted,) shall be applied solely to the following purposes, that is to say: To defraying the current expenses of the Corporation for the purposes of its institution, and the relief of persons whom the Corporation may deem proper objects of such relief, according to the By-laws of the Corporation then in force, and to the provisions of this Act.

Proviso: permanent fund not to be made use of.

Revenue to be applied to certain purposes only.

Affairs of the corporation to be managed by a committee elected yearly.

III. And be it enacted, That the affairs and business of the said Corporation shall be managed by a Committee of Management, consisting of a President, two Vice-Presidents, twenty-three Managers, one or more Physicians, a Treasurer, a Secretary and an Assistant Secretary, to be annually elected and chosen from among the resident members at the preparatory meeting to be held on the first Friday in the month of March, in conformity with the constitution of the said Society, and such election shall be by ballot, and a majority of votes shall decide, or unanimously by acclamation; and such Committee of Management shall remain in office until their successors are chosen (and until the Festival of St. Patrick next thereafter, should the election take place at the usual time immediately before the said Festival); Provided always, that the officers elected and appointed to serve from the Festival of St. Patrick in the present year

Proviso: who shall be the Committee for

year shall be the Committee of Management of the said Corporation until others shall in due course be elected in their stead; and any seven members of the said Committee of Management shall be a quorum for the despatch of business; and any majority of such quorum may exercise all the powers of the said Committee, at all meetings held under this Act, or the By-laws of the said Corporation, and the President, Vice-President or other person presiding at such meeting, shall vote as a member of the Committee, and if the Committee be then equally divided, shall have a casting vote.

the current year.

IV. And be it enacted, That the said Committee of Management shall yearly, in the month of March, insert in some newspaper published in the City of Quebec, a statement of the affairs of the said Corporation, shewing the sums of money received and expended during the then past year certified by the Treasurer.

Committee to publish a yearly statement of the affairs of the Corporation:

V. And be it enacted, That all Deeds sealed with the Common Seal of the Corporation, and signed by the President or one of the Vice-Presidents, and countersigned by the Secretary, or in his absence by the Assistant Secretary, shall be held to be Deeds of the Corporation: Provided always, that the Treasurer for the time being may receive all moneys payable to the Corporation, and grant valid receipts therefor.

What shall be deeds of the Corporation.

Proviso.

VI. And be it enacted, That it shall be lawful for the said Corporation to make By-laws which shall bind the members thereof, and all other parties who shall in writing agree to be bound by them, and to repeal or amend the same from time to time in the manner hereinafter provided; and such By-laws or amendments (except those of the said Society hereinafter continued in force) shall be prepared by the Committee of Management, and submitted by them to a general meeting of the Corporation at which the President or one of the Vice-Presidents, and at least twenty-five ordinary members of the Corporation, shall be present, and may at another general meeting to be held thereafter, be adopted, amended or rejected, in whole or in part: Provided always, that no such By-law shall have force and effect except in so far as it shall not be repugnant to this Act or to the Laws of Lower Canada; and provided also, that no such By-law, shall impose any penalty or forfeiture exceeding fifty shillings; And provided also, and it is hereby enacted, that the present Constitution and By-laws of the said Society, in so far as they may not be repugnant to this Act, or to the Laws of Lower Canada, shall be the By-laws of the Corporation hereby constituted until they shall be repealed or altered as aforesaid.

Corporation may make By-laws.

Proviso.

Proviso: existing By-laws continued in force.

VII. And be it enacted, That the general meetings of the said Corporation, and all the meetings of the said Committee of Management, shall be held in such manner, after such notice, upon such requisition, at such times and at such places in the City of Quebec, as shall be directed by the By-laws of the Corporation then in force; at which meetings the President shall preside, or in his absence the senior Vice-President, or in the absence of both, the second Vice-President, and in case of the absence of the President and both the Vice-Presidents, the meeting may call some other member of the Committee to the chair; and the presiding officer at any such meeting shall have full power and authority to keep order thereat.

General meetings of the Corporation.

Who shall preside.

VIII. And be it enacted, That the said Corporation shall not be dissolved, or the property thereof divided among the members, except under the provisions of a By-law passed by the consent of at least nine-tenths of the members of the said Corporation,

How only the Corporation may be dissolved.

nor

nor unless such By-law shall provide for and the funds of the Corporation shall be sufficient to meet the payment of all demands against the Corporation.

Public Act.

IX. And be it enacted, That this Act shall be deemed a Public Act, and as such shall be judicially noticed by all Courts of Justice, Judges and others whomsoever, without being specially pleaded.

MONTREAL: Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CXLVIII.

An Act to incorporate *La Société Saint Jean Baptiste de la Cité de Québec.*

[30th May, 1849.]

WHEREAS there exists in the City of Quebec, in this Province, an Association under the name of *La Société Saint Jean Baptiste de la Cité de Québec*, formed of Canadians of French origin, either on the father's or mother's side, or both, who have joined together for the purpose of promoting by all lawful means the national, industrial and social interests of the mass of the population of Canada in general, and of that City in particular, and of encouraging all who may become members thereof, in the mutual exercise of those acts of benevolence and philanthropy, which fraternity and national honor dictate to the children of the same country; And whereas the Honorable René Edouard Caron, President, the Honorable Louis Panet, Assistant President, and Messieurs Ulric Joseph Tessier, Abraham Hamel, Joseph Hamel, the younger, François Edouard Hamel, George Honoré Simard, Pierre V. Bouchard, Amable Pelletier, Thomas J. Gauvin, Charles Pierre Pelletier, Hypolite Dubord, Ives Tessier, Flavien Babineau, Eugène Chinic, François Xavier Frenette, François Parant, Isaie Gaudry, Isaie Gingras, Pierre Dorion, Pierre G. Huot, Philéas Methot, Gaspard Lortie, Louis Butté, Joseph Allard, Pierre Antoine Gagnon, Etienne Michon, François De Foy, Mathias Marcotte, Julien Chouinard, A. T. Le Droit, and Jean Baptiste Adjutor Chartier, the present officers of the said Association, have by their petition to the Legislature, represented that the said Association has already established claims to the gratitude of the public, by the acts of benevolence and philanthropy, which it has performed for the attainment of the objects of its formation; And whereas they have also represented, that in order to obtain more effectually the advantages likely to result from the said Association, it is necessary that the said Association should be incorporated; And whereas it is proper to accede to the request of the Petitioners, subject always to the provisions hereinafter contained: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly, of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the above named Officers, and all such other persons as now are, or may hereafter become Members of the said Association, under the provisions of this Act, and the By-laws made or in force under the authority thereof, shall be, and they are hereby constituted a body politic and corporate, by the name of *La Société Saint*

Preamble.

The Officers and Members of the Association incorporated.

Corporate name and powers.

Value of real property limited.

Transfer of property liabilities of the Association to the Corporation.

Sources whence the Corporation may derive property, and purposes to which it may be applied.

Officers of the Association and Committee of Management.

To be elected yearly, and how.

Proviso for failure to elect.

Saint Jean Baptiste de la Cité de Québec ; and shall by that name have perpetual succession, and may have a Common Seal if they think proper, with power to change the same at pleasure, and may sue and be sued in all Courts of Law or Equity, and may acquire and hold personal property to any amount, and also immoveable property, not exceeding in value at any one time, ten thousand pounds, currency, and may alienate the same, and acquire other such property instead thereof, not exceeding the value aforesaid, and shall have such other powers as may be necessary to carry this Act into effect, according to its true intent and meaning ; and all property, real and personal, now belonging to the Association aforesaid, or held in trust for the said Association, or for the use thereof, shall, after the passing of this Act, become the property of the Corporation hereby constituted ; and all debts due to and obligations contracted in favor of the said Association, or any Officer of the said Association, or other person acting on behalf thereof, shall from the same time be deemed to be due to, and to have been contracted in favor of the said Corporation ; and all debts due from, and obligations contracted by the said Association, or by any Officer or person acting on behalf thereof, shall from the same time be deemed to be due from and to have been contracted by the said Corporation ; and all such property, debts and obligations, may be sued for, recovered and enforced, by or against the said Corporation.

II. Provided always, and be it enacted, That the said Corporation shall have no power to hold any property, nor shall any property be held in trust for them, or for their use, except such as shall be derived from the following sources, or purchased with the funds derived from such sources, that is to say : the property of the Association hereby transferred to the Corporation the admission fees of Members, which shall in no case exceed two pounds currency, each Member, the annual subscription of Members for the general purposes of the Corporation, which shall in no case exceed the rate of two pounds currency, per annum ; the subscription of Members to the charitable funds of the Corporation, donations, bequests or legacies made to the said Corporation ; and the moneys arising from fines and forfeitures lawfully imposed by the By-laws ; and provided always that the property and funds of the said Corporation shall be applied solely to the following purposes, that is to say : to defraying the current expenses of the Corporation for the purposes of its institution, and the relief of persons whom the Corporation may deem proper objects of such relief, according to the By-laws of the Corporation then in force, and to the provisions of this Act.

III. And be it enacted, That the Officers of the said Association shall be a President, an Assistant President, six Vice-Presidents, a Treasurer, an Assistant Treasurer, three Sub-Treasurers, a Recording Secretary, an Assistant Secretary, six under Secretaries, a Marshal, six Deputy Marshals, nine Receivers and Six Deputy Auditors, and that the affairs and business of the said Corporation shall be managed by a General Committee of Management, consisting of the President, Treasurer and Recording Secretary, and their Assistants, the Marshal, the Vice-Presidents, and under Secretaries, and fifteen other Members of the Corporation, which said Officers and General Committee of Management, shall be elected on motion by the majority of voices of the Members present at a General Meeting which shall take place on the first Monday in the month of September, in each year, succeeding the present, and sufficient notice of the day, place and hour of the said Annual General Meeting shall be given, eight days previously by the said Recording Secretary : Provided always, that if such Election do not take place in any year on the day above mentioned, the President, or in his absence, or in case of his

his refusal so to do, the Assistant President, or one of the Vice-Presidents of the Corporation for the time being, shall call a General Meeting for that purpose, on some subsequent day in the manner aforesaid ; and provided also, that the first Meeting for the Election of Officers, and of the General Committee of Management, shall take place, within three months after the passing of this Act, which said Meeting shall be called by the Recording Secretary, and shall be advertised for eight days previously, in some two or more Newspapers, published in the City of Quebec.

Proviso as to first meeting:

IV. And be it enacted, That the General Committee of Management of the said Corporation, shall have power to make such By-laws as may be necessary for the good government of the said Corporation, subject to approval at a General Meeting of the Members of the said Corporation, and after such approval the said By-laws shall not be changed, altered, modified or repealed, without notice of the change, alteration, modification or repeal, having been given one month at least before the day on which the same shall be proposed ; nor unless such change, alteration, modification or repeal, shall be approved by two thirds of the Members present at the Meeting at which the same shall be put to the vote ; Provided always, that the said By-laws shall not be in any way contrary to the Laws of Lower Canada or to this Act.

Power of the Committee of Management to make By-laws.

Proviso:

V. And be it enacted, That whenever a majority of the General Committee of Management shall have decided that it is necessary to call a General Meeting of the Members of the said Corporation, for a special purpose other than that of the Election of Officers, such Meeting may be lawfully called by the President, or in his absence, or in case of his refusal so to do, by the Assistant President, or one of the Vice-Presidents, by a notice in the Newspapers published in the City of Quebec, naming the day, hour, place and object of such Meeting, and signed by the Recording Secretary.

How general meetings may be called for a special purpose.

VI. And be it enacted, That the By-laws of the said Association, in so far as they may not be repugnant to this Act, or to the Laws of Lower Canada, shall be the By-laws of the Corporation hereby constituted, until they shall be repealed or altered as aforesaid.

Present By-laws continued until altered.

VII. And be it enacted, That the present Officers of the said Association, shall be the Officers of the Corporation hereby constituted, until others shall be elected in their stead, at the Meeting to be held as hereinbefore provided.

Present Officers continued until others are elected.

VIII. And be it enacted, That in all suits or actions against the said Corporation, service of Process at the domicile of the Recording Secretary thereof, shall be a sufficient service of such Process for all purposes of Law.

As to service of Process.

IX. And be it enacted, That no person otherwise competent to be a witness in any suit, action or prosecution in which the said Corporation may be engaged, shall be deemed incompetent to be such witness, by reason of his being, or having been, at any time a Member, Officer or Servant of the said Corporation.

Members competent as witnesses.

X. And be it enacted, That the Members of the said Corporation shall not be personally liable for any debts of the said Corporation.

Members not personally liable.

How only the Corporation may be dissolved.

XI. And be it enacted, That the said Corporation shall not be dissolved, or the property thereof divided among the Members or otherwise, except under the provisions of a By-law, passed by the consent of at least seven eighths of the Members of the said Corporation, nor unless such By-law shall provide for, and the funds of the said Corporation shall be sufficient to meet the payment of all demands against the said Corporation; Provided always, that nothing herein contained shall be construed to prevent any Member from withdrawing at any time from the said Corporation, after payment of all arrears by him due to the funds thereof, including his annual subscription for the year then current.

Proviso: Members may withdraw.

Committee to publish an annual statement.

XII. And be it enacted, That the said General Committee of Management of the said Corporation, shall yearly, in the month of January, insert in some Newspaper published in the City of Quebec, a statement of the amount of the funds and property, debts and liabilities of the said Corporation, certified by the Treasurer thereof, and that the repeal or alteration of this Act by the Legislature, shall not be deemed an infringement of the rights of the said Corporation.

Public Act.

XIII. And be it enacted, That this Act shall be deemed a Public Act, and as such shall be judicially noticed by all Judges, Justices and others whomsoever, without being specially pleaded.

MONTREAL :—Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CXLIX.

An Act to incorporate *L'Association Saint Jean Baptiste de Montréal*, in the City, Parish and District of Montreal.

[30th May, 1849.]

WHEREAS the President and Members of the Association which hath for several years existed at Montreal, in the City, Parish and District of Montreal, under the name of *L'Association Saint Jean Baptiste de Montréal*, have by their Petition to the Legislature, represented that the said Association has been formed to afford assistance to such persons in this Province of French extraction, whether on the paternal or maternal side, or who being of any other origin have married persons of French extraction, as may through accidents or other misfortunes, stand in need of the assistance of their fellow citizens, and also to foster education amongst them, and promote their moral and social progress, and for other beneficial purposes, and have prayed that for the better attainment of the objects of the said Association, it may be invested with corporate powers, and by reason of the good effected by the said Association, it is expedient to grant the prayer of the said Petition: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the Honorable Joseph Bourret, Louis Marchand, E. R. Fabre, Pierre Jodoin, Jean Bruneau, Olivier Berthelet, Ludger Duvernay, R. Trudeau, Joseph Grenier, Joseph Boulanget, Charles Joseph Coursol, Amable Prévost, B. H. Lemoine, G. Peltier, Joseph L. Brault, A. Larocque, George Etienne Cartier, René August Richard Hubert, Joseph Féréol Peltier, J. B. Homier, J. L. Leprohon, F. X. Brazeau, A. Matte, Jules R. Berthelot, L. P. Boivin, V. Hudon, Guillaume Lévesque, Rouer Roy, Robert S. M. Bouchette, Esquires, and such other persons as are now Members of the said Association, or shall hereafter become Members thereof, under the provisions of this Act and the By-laws made or in force under the authority thereof, shall be and they are hereby constituted a Body politic and corporate, by the name of *L'Association Saint Jean Baptiste de Montréal*, and shall by that name have perpetual succession and a common seal, which shall be the present Seal of the said Association, bearing the words "*Rendre le peuple meilleur.*" and may sue and be sued in all Courts of Law or Equity, and may acquire and hold personal property to any amount, and immoveable property not exceeding in yearly value one thousand five hundred pounds currency, and may alienate the same and acquire other such property instead thereof,

Preamble.

Certain persons incorporated.

Corporate name and powers.

not

Value of real property limited.

Transfer of property and liabilities of the Association to the Corporation.

not exceeding the value aforesaid, and shall have such other powers as may be necessary to carry this Act into effect according to its true intent and meaning; and all property, real and personal, now belonging to the Association aforesaid, or held in trust for the said Association, or for the use thereof, shall after the passing of this Act, become the property of the Corporation hereby constituted; and all debts due to and obligations contracted in favour of the said Association, or any officer of the Association or other person acting on behalf thereof, shall from the same time be deemed to be due to, and to have been contracted in favor of the said Corporation; and all debts due from, and obligations contracted by the said Association, or by any officer or person acting on behalf thereof, shall from the same time be deemed to be due from and to have been contracted by the said Corporation; and all such property, debts and obligations may be sued for, recovered and enforced, by or against the said Corporation.

Sources and application of the property of the Corporation.

II. Provided always, and be it enacted, That the said Corporation shall have no power to hold any property, nor shall any property be held in trust for them or for their use, except such as shall be derived from the following sources, or purchased with funds derived from such sources, that is to say: the property of the Association hereby transferred to the Corporation, the admission fees of Members, which shall in no case exceed two pounds currency each Member; the annual subscription of Members for the general purposes of the Corporation, which shall in no case exceed the rate of two pounds per annum; the subscription of Members to the Charitable Funds of the Corporation, donations, bequests or legacies made to the said Corporation, and the moneys arising from fines and forfeitures lawfully imposed by the By-laws; And provided always, that the property and funds of the said Corporation shall be applied solely to the following purposes, that is to say: to defraying the current expenses of the Corporation for the purposes of its institution, and the relief of persons whom the Corporation may deem proper objects of such relief, according to the By-laws of the Corporation then in force, and to the provisions of this Act.

Proviso: application of funds.

Affairs of Corporation to be managed by certain officers as a Committee of Management.

III. And be it enacted, That the affairs and business of the said Corporation shall be managed by a Committee of Management consisting of a President, thirteen Vice-Presidents, a Treasurer, four Sub-Treasurers, a Recording Secretary, a Corresponding Secretary, eight Secretaries, a Marshal, Deputy-Marshal and sixteen Collectors, who shall be the Officers of the Association, to be elected annually at a General Meeting of the Members of the Corporation, held in conformity to the By-laws thereof; and shall remain in office until others are elected and appointed in their stead; and of twenty-four other Members who shall be elected for three years, eight of whom shall vacate their offices by lot at the end of the first year, and shall be replaced by an equal number elected in their stead, and eight of the remaining Members shall also vacate their office in the same manner at the end of the second year, and shall also be replaced by an equal number in their stead, and thenceforth one third of the said twenty-four Members shall vacate their offices every year in rotation, after having served three years, and an equal number shall be elected in their stead, and the same Members may be re-elected consecutively; and any twelve Members of the said Committee, of whom six at least shall not otherwise be Officers of the said Association, shall be a *quorum*, for the despatch of business; and any majority of such *quorum* may exercise all the powers of the said Committee, at all Meetings held in accordance with the By-laws of the said Corporation; and the President shall preside at all General Meetings and at all Meetings of the said Committee, and in his absence one of the Vice-Presidents, or

Quorum.

Who shall preside.

in

in their absence any Member called upon by the majority of Members present, and the person so presiding shall only vote in case of an equal division when he shall have a casting vote; and the said Corporation by the By-laws which they are hereinafter authorized to make and establish, may from time to time augment or diminish the number of their Officers and other Members of the Committee of Management, alter their names and titles and the tenure of their offices, and make in that respect whatever changes they may see fit.

IV. And be it enacted, That all deeds sealed with the common seal of the Corporation, and signed by the President or any one of the Vice-Presidents and by any two other Members of the Committee of Management, and countersigned by the Treasurer, and none other, shall be held to be deeds of the Corporation: Provided always, that the Treasurer for the time being may receive all moneys payable to the Corporation, and grant valid receipts therefor.

What shall be deeds of the Corporation.

Proviso.

V. And be it enacted, That it shall be lawful for the said Corporation to make By-laws which shall bind the Members thereof, and to repeal or amend the same from time to time as may be found expedient: Provided always, that no such By-law shall have force and effect except in so far as it shall not be repugnant to this Act or to the laws of Lower Canada: And provided further, that it shall be lawful for the said Corporation by any such By-law, to divide the City and Parish of Montreal into as many sections or divisions and subdivisions as they may deem convenient for the purposes of the said Association, and to subdivide the Members of the said Association residing in such sections, into *centuries* and *décuries*, or such other subdivisions under any names whatsoever as they may think proper; to provide for the election or appointment of *centurions* and *décurions*, or other officers under any names whatsoever, in the said sections, divisions or subdivisions; and to regulate the duties of the said Officers of the said Association; and augment or diminish their number and alter their titles from time to time, as also to alter, augment or diminish the said sections, divisions and subdivisions, or abolish them altogether as they may see fit; and any copy or extract of any By-laws, signed by the President and countersigned by the Recording Secretary shall be deemed authentic.

Corporation may make By-laws.

Proviso.

May divide Montreal into sections, &c.

What shall be authentic copies of By-laws.

VI. And be it enacted, That the General Meetings of the said Corporation and all Meetings of the said Committee of Management, shall be held in such manner, after such notice, upon such requisition, at such times, and at such place in the City of Montreal as shall be directed by the By-laws of the Corporation then in force.

Meetings of Corporation, &c.

VII. And be it enacted, That the By-laws of the said Association in so far as they may not be repugnant to this Act or to the Laws of Lower Canada, shall be the By-laws of the Corporation hereby constituted, until they shall be repealed or altered as aforesaid: Provided always, that no such By-law, whether made before or after the passing of this Act, shall impose any penalty or forfeiture exceeding one pound five shillings currency.

Present By-laws of Association continued until altered.

Proviso.

VIII. And be it enacted, That the present Officers of the said Association shall be the Officers of the Corporation until others shall be elected in their stead at the next annual General Meeting, to be held in accordance with the By-laws of the said Corporation.

Officers of Association continued.

As to service
of Process.

IX. And be it enacted, That in all suits or actions against the said Corporation, service of Process at the domicile of the Recording Secretary or of the Treasurer of the Corporation, shall be sufficient service thereof for all purposes of law.

Non-liability
of members.

X. And be it enacted, That the Members of the said Corporation shall not be personally liable for any debts of the said Corporation.

Punishment of
officers unlaw-
fully obtaining
moneys, &c.

XI. And be it enacted, That any Officer or Member of the Association, who shall receive money for and on behalf of the same, and shall refuse or neglect to remit the said money to the proper Officer, or to account for the same according to the By-laws, shall be held personally responsible towards the Association for any sum which he shall refuse or neglect to account for and remit, and shall be liable to be sued accordingly in all Courts of competent jurisdiction; and the said Association shall and may also sue for and recover all real property, sums of money and other property unto them belonging actually, or hereafter, by virtue of any title whatsoever according to this Act, which may be possessed or withheld by any person, and the property, use and management of which do actually belong, or shall hereafter belong to the said Association by virtue of this Act, and any person who shall illegally retain in his possession property belonging as aforesaid, may be condemned to damages in favour of the said Association at the discretion of the Court.

Public Act.

XII. And be it enacted, That this Act shall be a Public Act, and as such shall be judicially noticed by all Judges, Justices of the Peace and others whom it may concern, without being specially pleaded.

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ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CL.

An Act to incorporate *The St. George's Society of Quebec.*

[30th May, 1849.]

WHEREAS the President and Members of the Association which hath for many years existed at Quebec, under the name of the *St. George's Society of Quebec*, have by their Petition to the Legislature represented, that the said Association has been formed for the benevolent purpose of affording pecuniary, medical and other relief to such natives of England and Wales and their descendants, in this Province, as may, from sickness or other causes, have fallen into distress, and have prayed that, for the better attainment of the objects of the said Association, it may be invested with corporate powers; and by reason of the good effected by the said Association it is expedient to grant the prayer of the said Petition: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That Thomas William Lloyd, Henry John Noad, John Musson, William Bennett, John H. Clint, Robert Symes, the Reverend George Mackie, D. D., the Reverend Armine W. Mountain, B. A., James A. Sewell, M. D. E., Charles Poston, Benjamin Cole, William B. Meyer, Weston Hunt, Robert Roberts, Peter Sheppard, Samuel Wright, Abraham Joseph, William Hedley Anderson, Benson Bennett, William Kimlin, M. D., Henry W. Welch, William H. A. Davies, John Shaw, and Samuel Newton, and such other persons as are now Members of the said Association, or shall hereafter become Members thereof, under the provisions of this Act, and the By-laws made or in force under the authority thereof, shall be and they are hereby constituted a Body Politic and Corporate, by the name of *The St. George's Society of Quebec*, and shall by that name have perpetual succession and a Common Seal, with power to change the same at pleasure, and may sue and be sued in all Courts of Law or Equity, and may acquire and hold personal property to any amount, and immoveable property not exceeding in yearly value, two thousand pounds currency, and may alienate the same and acquire other such property instead thereof, not exceeding the value aforesaid, and shall have such other powers as may be necessary to carry this Act into effect according to its true intent and meaning; and all property, real and personal, now belonging to the Association aforesaid, or held in trust for the said Association, or for the use thereof, shall after the passing of this Act, become the

Preamble.

Certain persons incorporated:

Corporate name and powers.

Real property limited.

Transfer of property and liabilities of the Association to the Corporation.

property

property of the Corporation hereby constituted; and all debts due to and obligations contracted in favour of the said Association, or any Officer of the Association or other person acting on behalf thereof, shall from the same time be deemed to be due to, and to have been contracted in favour of the said Corporation; and all debts due from, and obligations contracted by the said Association, or by any Officer or person acting on behalf thereof, shall from the same time be deemed to be due from, and to have been contracted by the said Corporation; and all such property, debts and obligations may be sued for, recovered and enforced, by or against the said Corporation.

Proviso: Corporation to acquire property in certain ways.

II. Provided always, and be it enacted, That the said Corporation shall have no power to hold any property, nor shall any property be held in trust for them or for their use, except such as shall be derived from the following sources, or purchased with funds derived from such sources, that is to say: The property of the Association hereby transferred to the said Corporation; the admission fees of Ordinary or Honorary Members, which shall in no case exceed one pound five shillings currency, each Member; the life subscription of Members, which shall in no case exceed seven pounds ten shillings currency, for each; the annual subscription of Members for the general purposes of the Corporation, which shall in no case exceed the rate of ten shillings currency, per annum; the subscriptions of Members to the Charitable Funds of the Corporation, donations, bequests or legacies made to the said Corporation, and the moneys arising from fines and forfeitures lawfully imposed by the By-laws: And provided also, that the property and funds of the said Corporation, that is to say, the amount of the permanent fund which forms the chief part of the property of the Association hereby transferred to the said Corporation, and all sums which shall hereafter be received by the said Corporation for life subscriptions of Members, or from legacies, bequests or donations, not specially made for other purposes, shall constitute the permanent Fund of the Corporation, no part of the Capital amount of which shall be expended or paid away, but the whole shall from time to time be invested in real or immoveable property, (not exceeding the value aforesaid,) in Bank Stock or Provincial or other Securities hereinafter designated, and the rents, interest or other income arising from such investments, together with the moneys derived by the said Corporation from all sources, shall be applied solely to the following purposes, that is to say: To defraying the current expenses of the Corporation for the purposes of its Institution, and the relief of persons whom the Corporation may deem proper objects of such relief, according to the By-laws of the Corporation then in force, and to the provisions of this Act.

Proviso: funds of Corporation to be applied only to certain purposes.

Affairs of Corporation to be managed by a Committee of Management, consisting of certain Officers, &c.

III. And be it enacted, That the affairs and business of the said Corporation shall be managed by a Committee of Management, consisting of a President, a first and second Vice-President, a Secretary, an Assistant Secretary, one or two Chaplains, one or two Physicians, and fifteen other Members, to be elected annually at a General Meeting of the Members of the Corporation, held in conformity to the By-laws thereof, besides a Treasurer to be appointed at a meeting of the Officers so elected, which shall be held within twenty-four hours of such aforesaid election, and the Committee so elected and appointed shall remain in office until others are elected and appointed in their stead; and any six Members, and the President or a Vice-President shall be a *quorum* for the despatch of business; and any majority of such a *quorum* may exercise all the powers of the said Committee, at all meetings held in accordance with the By-laws of the said Corporation, and the President, Vice-President, or other person presiding at any such meeting,

Quorum.

meeting, shall vote as a Member of the Committee, and if the Committee be then equally divided, shall have a casting vote.

IV. And be it enacted, That all Deeds sealed with the Common Seal of the Corporation, and signed by the President or Vice-Presidents and by some other Member of the Committee of Management, and countersigned by the Treasurer, and none other, shall be held to be Deeds of the Corporation: Provided always, that the Treasurer for the time being may receive all moneys payable to the Corporation, and grant valid receipts therefor.

What shall be the Deeds of the Corporation.

Proviso.

V. And be it enacted, That it shall be lawful for the said Corporation to make By-laws which shall bind the Members thereof, and all other parties who shall in writing agree to be bound by them, and to repeal or amend the same from time to time in the manner hereinafter provided; and such By-laws or Amendments (except those of the said Association hereinafter continued in force,) shall be prepared by the Committee of Management, and submitted by them to a General Meeting of the Corporation at which the President and one of the Vice-Presidents, and at least twenty-five Ordinary Members of the Corporation, shall be present, and may at such General Meeting be adopted, amended or rejected, in whole or in part, by any majority of the Members present thereat: Provided always, that no such By-law shall have force and effect except in so far as it shall not be repugnant to this Act or to the Laws of Lower Canada.

Corporation may make By-laws.

Proviso.

VI. And be it enacted, That the General Meetings of the said Corporation, and all meetings of the said Committee of Management, shall be held in such manner, after such notice, upon such requisition, at such times, and at such places in the City of Quebec, as shall be directed by the By-laws of the Corporation then in force.

Meetings of Corporation.

VII. And be it enacted, That the By-laws of the said Association, in so far as they may not be repugnant to this Act, or to the Laws of Lower Canada, shall be the By-laws of the Corporation hereby constituted, until they shall be repealed or altered as aforesaid: Provided always, that no such By-law, whether made before or after the passing of this Act, shall impose any penalty or forfeiture exceeding one pound five shillings currency.

By-laws of Association to be those of Corporation.

Proviso.

VIII. And be it enacted, That the said Corporation may invest their Funds in any legally established Savings' Bank, in the Stock of any Chartered Bank in this Province, in any Provincial Securities or Securities guaranteed by the Province, or in Debentures or Bonds of the Corporation of the City of Quebec, but in no other way whatsoever, except in the immoveable property which they are hereinbefore empowered to hold.

Corporation may invest funds in Savings Banks, &c.

IX. And be it enacted, That until others shall be elected in their stead, according to the By-laws of the Corporation, the present Officers of the Association aforesaid, shall be those of the said Corporation, that is to say: The said Thomas William Lloyd, shall be the President; the said Henry John Noad, the first Vice-President; the said John Musson, the second Vice-President; and the said William Bennett, the Secretary; the said John H. Clint, the Assistant Secretary; the said Robert Symes, the Treasurer; the said Rev. George Mackie, D. D., and the said Rev. Armine Mountain, B. A., the Chaplains; the said James A. Sewell, M. D. E., the Physician; and the said Charles

Present Officers of Association to be those of the Corporation.

Poston,

Poston, Benjamin Cole, William B. Meyer, Weston Hunt, Robert Roberts, Peter Shepard, Samuel Wright, Abraham Joseph, William Hedley Anderson, Benson Bennett, William Kimlin, M. D., Henry W. Welch, William H. A. Davies, John Shaw, and Samuel Newton, the other Members of the Committee of Management.

Members not
disqualified as
witnesses.

X. And be it enacted, That no person otherwise competent to be a Witness in any suit, action or prosecution, in which the said Corporation may be engaged, shall be deemed incompetent to be such Witness by reason of his being or having been, at any time, a Member, Officer or Servant of the said Corporation.

How only the
Corporation
may be dis-
solved.

XI. And be it enacted, That the said Corporation shall not be dissolved, or the property thereof divided among the Members, except under the provisions of a By-law, passed by the consent of at least nine tenths of the Members of the said Corporation, nor unless such By-laws shall provide for, and the Funds of the Corporation shall be sufficient to meet the payment of all demands against the Corporation: Provided always, that nothing herein contained shall be construed to prevent any Member from withdrawing at any time from the said Corporation after payment of all arrears by him due to the Funds thereof, including his annual subscription for the year then current.

Previso:
Members may
withdraw.

Statement of
affairs to be
published
yearly.

XII. And be it enacted, That the said Committee of Management shall yearly, in the month of January, insert in some newspaper published in the City of Quebec, a statement of the amount of the funds and property, debts and liabilities of the said Corporation, certified by the Treasurer thereof; and that the repeal or alteration of this Act by the Legislature shall not be deemed an infringement of the rights of the said Corporation.

Public Act.

XIII. And be it enacted, That this Act shall be deemed a Public Act, and as such shall be judicially noticed by all Judges and others whomsoever, without being specially pleaded.

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ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CLI.

An Act to continue for a limited time the Act of the Legislature of Lower Canada incorporating *The Quebec Friendly Society*.

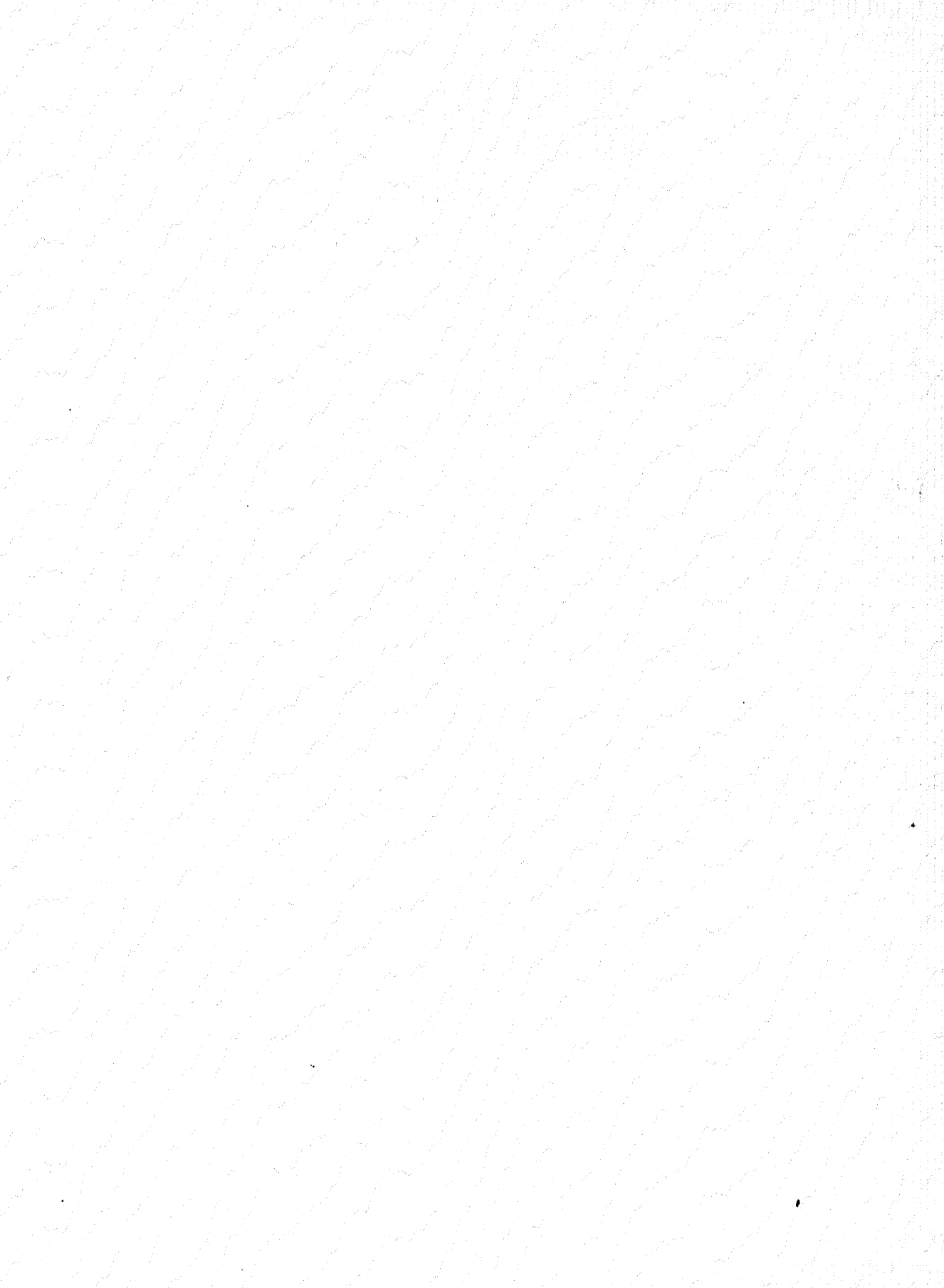
[25th April, 1849.]

WHEREAS it is expedient to continue for a limited time the Act hereinafter mentioned: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the Act of the Legislature of the late Province of Lower Canada, passed in the Session held in the tenth and eleventh years of the Reign of His late Majesty King George the Fourth, and intituled, *An Act to incorporate certain persons under the name of The Quebec Friendly Society*, shall be and is hereby continued, and shall remain in force until the first day of June, one thousand eight hundred and seventy-one, and thence until the end of the then next ensuing Session of the Provincial Parliament, and no longer.

Preamble.

Act of L. C.
10 and 11 Geo
4, c. 49, con-
tinued.

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ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CLII.

An Act to amend the Charter of the *Literary and Historical Society of Quebec.*

[25th April, 1849.]

WHEREAS in the Royal Charter of His late Majesty King William the Fourth, incorporating the *Literary and Historical Society of Quebec*, and bearing date the fifth day of October in the year of Our Lord one thousand eight hundred and thirty-one, a proviso is inserted in the words following: " Provided always, and our will and pleasure is, that no Act done at any meeting of the Society shall be valid and effectual unless the President or one of the Vice-Presidents and eight other Members of the said Society at least be present, and the major part of them do consent to and concur therein;" And whereas the *quorum* established by the said Proviso hath been found to be inconveniently large, and the said Society have petitioned that the said Charter be amended in this particular, and the said *quorum* reduced in the manner hereinafter provided: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That for and notwithstanding any thing in the said Proviso, or in any other part of the Charter cited in the Preamble to this Act, each and every act done at any meeting of the said *Literary and Historical Society of Quebec*, shall be valid and effectual, provided the President or one of the Vice-Presidents of the said Society, and at least two other Members thereof, be present at such meeting, and the majority of them do consent and concur therein, and not otherwise.

Preamble.

Royal Charter recited.

Quorum at meetings of the said Society to be three.

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ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CLIII.

An Act to incorporate *The Horticultural Society of Montreal.*

[30th May, 1849.]

WHEREAS the establishment of a Society, in the City of Montreal, for the encouragement and advancement of Horticulture and the Arts and Sciences therewith connected, would greatly promote that branch of science : And whereas the persons hereinafter mentioned have associated themselves for the purpose of forming such a Society, under the name of *The Canadian Horticultural Society*, and have represented that they cannot effectually carry out the object they have in view without an Act of Incorporation vesting in them such powers as may be necessary for the purposes aforesaid, and have prayed that such Act be passed, and it is right and expedient to grant their prayer : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That John S. McCord, L. Villeneuve, Honorable W. Badgley, Honorable A. N. Morin, George Desbarats, John Boston, George Shepherd, Tancred Bouthillier, Joseph Savage, John Torrance, John Frothingham, S. Jones Lyman, William Lyman, Jas. Cowper, James Ferrier the younger, George Garth, and such other persons as are now Members of the Society aforesaid, together with all such persons as shall hereafter from time to time become Members of the Corporation hereby constituted, according to the provisions of this Act and of the By-laws of the said Corporation, shall be and are hereby declared to be a Body Corporate and Politic in name and in fact, by the name and style of *The Horticultural Society of Montreal*, and all corporate rights and powers which by any Act or Law are vested in bodies corporate generally, shall vest in such Corporation to all intents, constructions and purposes as if the same had been specially mentioned in this Act.

Preamble.

Certain persons incorporated.

Corporate name and powers.

II. And be it enacted, That the said Corporation shall have power to acquire and hold real property to the extent of two thousand pounds in value, and no more, and the same, and also all their moveable property shall be held by the said Corporation for the purposes herein mentioned, or for other objects and uses legitimately connected with such purposes, and for no other.

Real property of the Corporation limited.

III.

Transfer of the property and liabilities of the said Society to the Corporation.

III. And be it enacted, That all the property of the Society mentioned in the Preamble to this Act, moveable and immoveable, and all the rights, claims and debts active thereof, shall be transferred to and are hereby vested in the Society hereby incorporated, and all the liabilities and debts passive of the said first mentioned Society shall be and are hereby transferred to and shall be borne by the Society hereby incorporated, which shall be in the place and stead of the said first mentioned Society to all intents and purposes whatsoever.

By-laws and Officers of the Society continued.

IV. And be it enacted, That the By-laws of the said first mentioned Society, in so far as they may not be inconsistent with this Act, shall be the By-laws of the Corporation hereby created, until repealed or altered in the manner hereinafter provided; and that the Officers of the said first mentioned Society shall be the Officers of the Corporation hereby created until others shall be appointed or elected in their stead, according to the By-laws of the Corporation.

Objects for which the Corporation is established.

V. And be it enacted, That the objects and purposes of the said Corporation shall be,—the improvement of the system of Horticulture and garden produce and of Horticultural implements,—the introduction of useful inventions applicable to Horticulture, and of such new plants and seeds as may be adapted to Lower Canada,—and also the diffusion of sound and useful knowledge on all subjects connected with Horticulture and the Sciences and Arts connected therewith,—the holding of Horticultural Shows and Meetings, and the awarding and giving of prizes at such shows and meetings, or for the doing of any thing relative to the objects aforesaid for which they shall think proper to award such prizes, and generally to do all such things as may be legitimately and fairly adapted to improve the science and practice of Horticulture.

Directors to be appointed to manage the affairs of the Corporation.

VI. And be it enacted, That the affairs and property of the Society shall be managed by twenty Directors, to be elected every year by and from among the Members of the Corporation, and who shall, as soon as may be after their election, elect from among themselves one President, four Vice-Presidents, a Secretary and a Treasurer, who shall remain in office until the next yearly election of Directors; and of the said Directors, any four of whom the President or one of the Vice-Presidents shall be one, at any meeting of the Directors held according to the By-laws of the Corporation then in force, shall be a *quorum* for the transaction of business of the Society, and any majority of such *quorum* may exercise all the powers hereby or by the By-laws of the Corporation vested in the Directors; and the said Directors may empower the President or any Vice-President to sign and the Secretary to countersign any *Acte* or Document, and to affix the Common Seal of the Corporation thereto; and any *Acte* or Document so signed and sealed shall be deemed the *Acte* of the said Corporation, nor shall the authority of the persons signing or affixing the Seal of the Corporation thereto, to sign or seal the same, be liable to be called in question except by the Corporation, or some Director thereof.

Quorum and its powers.

Further powers of Directors.

Power to fill vacancies among the Officers or Directors.

VII. And be it enacted, That the said Directors shall have full power to fill any vacancy which may exist or may happen among the Officers or Directors between the annual elections aforesaid, by electing or appointing such Officer or Officers from among themselves, and such Director or Directors from among the Members of the Corporation as the case may require.

VIII. And be it enacted, That all elections under this Act shall be by ballot, and the person or persons having the majority of votes of the persons present and entitled to vote at the election, shall (if duly qualified as Members) be deemed to be the person or persons elected.

Elections to be by ballot.

IX. And be it enacted, That it shall be the duty of the Directors from time to time to frame such By-laws as they shall deem best adapted to advance the interests of the Corporation, and the object for which it is established,—and to submit the By-laws so framed to an annual or special general meeting of the Members of the Corporation by whom the same may be allowed, disallowed or amended at such general meeting; and such By-laws as shall be passed at any such general meeting shall be put into writing, and signed by the person having presided thereat, and shall thereafter be binding on all Members and Officers of the Corporation until repealed or altered by other By-laws to be made and passed in like manner; and any copy of any By-law or By-laws, in print or in writing, purporting to be certified by the Secretary of the Corporation for the time being, and to bear the Seal of the Corporation, shall be *prima facie* evidence of such By-law or By-laws to all intents and purposes, and in all Courts and places whatsoever.

Directors to frame By-laws, subject to confirmation by the Members.

How By-laws may be proved.

X. And be it enacted, That by such By-laws the said Corporation may assign to the Directors any power not inconsistent with this Act hereby vested in the Corporation, and may direct the manner in which such powers shall be exercised, and may appoint the times and places of the annual general meetings of the Corporation, the mode of calling special general meetings, and the mode of auditing and examining the accounts of the Corporation, and may appoint the Common Seal and motto or device thereof.

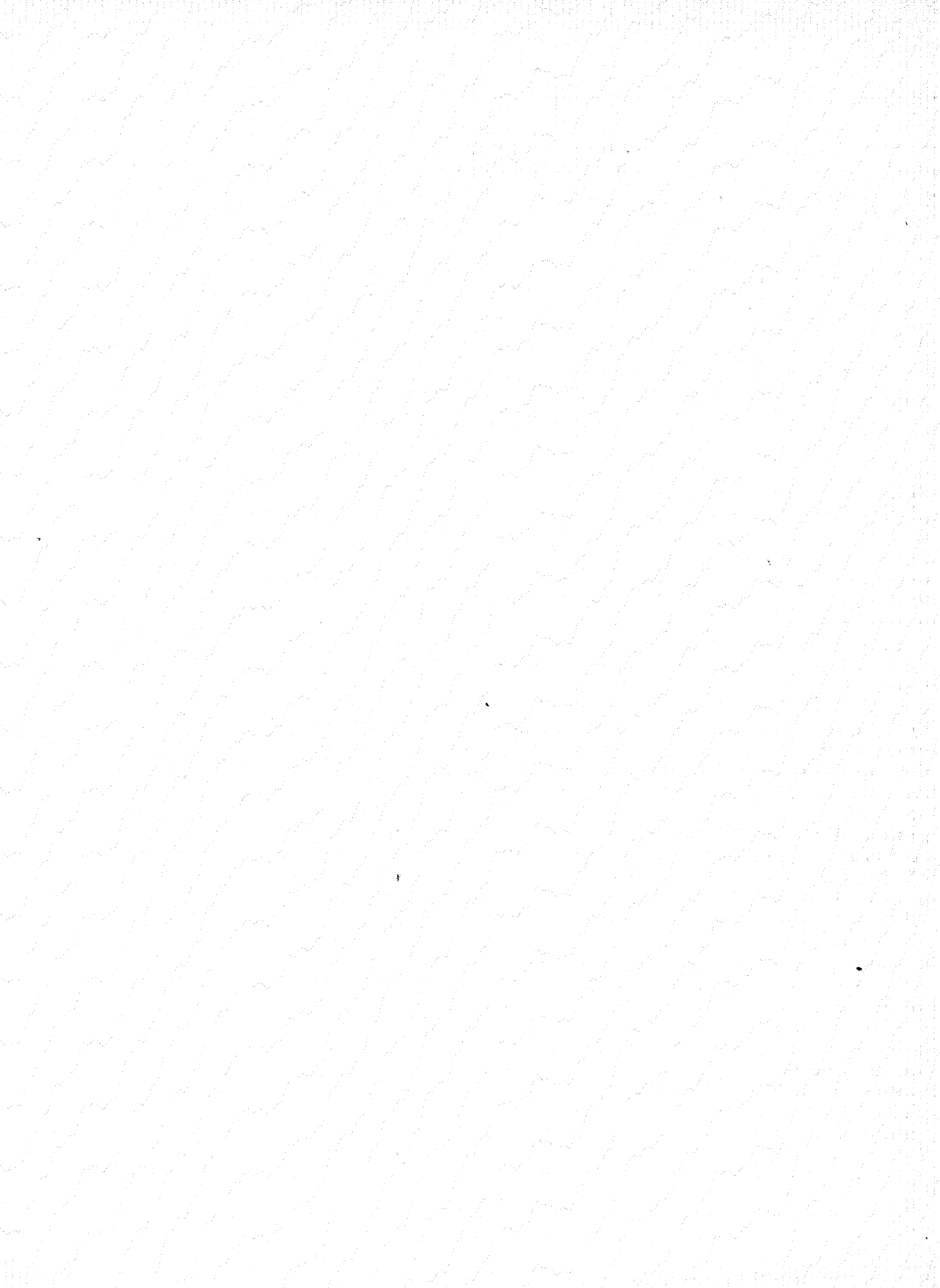
Certain things may be done by By-laws.

XI. And be it enacted, That the said Corporation shall annually, during the three first weeks of each Session of the Provincial Legislature, lay before the Governor and each House thereof, a report of their doings under the authority of this Act since their then last report.

Reports to be made to the Legislature.

XII. And be it enacted, That this Act shall be a Public Act, and as such shall be judicially noticed by all Judges, Justices of the Peace and others, without being specially pleaded.

Public Act.





ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CLIV.

An Act to incorporate *The Minister and Trustees of Saint Andrew's Church Montreal.*

[30th May, 1849.]

WHEREAS the ground in Saint Peter Street, Montreal, upon which the Church for the Public Worship and exercise of the religion of the Church of Scotland, in the City of Montreal, commonly called Saint Andrew's Church, is erected, was purchased by the late Alexander Rea and William Hunter, as Trustees for the Congregation worshipping in the said Church, under a Deed executed in their favour on the third day of May, one thousand eight hundred and five, before Guy and Barron, Notaries Public, and held by them (the said Alexander Rea and William Hunter,) according to their declaration of date fourteenth of July, one thousand eight hundred and six, made before the aforesaid Notaries, for the benefit and behoof of the said Church and the Congregation thereof, and for no other purpose whatsoever, and is particularly described in the aforesaid Deed of sale and declaration: And whereas the said Congregation of the said Church, did, on the twelfth day of May, one thousand eight hundred and thirty-five in a General Meeting of the Congregation duly summoned from the Pulpit for the purpose of electing Trustees for holding the said property along with the said William Hunter, the then surviving Trustee, did duly elect, the Reverend Alexander Mathieson, Minister of the said Church, John Smith, William Ritchie, Donald Mackay, and James Fleming, and did declare that the aforesaid Reverend Alexander Mathieson, John Smith, William Ritchie, Donald Mackay and James Fleming, along with the aforesaid William Hunter, and their successors for ever, shall be constituted Trustees of the said Church, and shall have a perpetual succession: And whereas the said Congregation of the said Church did, according to the provisions of the Constitution of the said Church, on the fifteenth day of June, one thousand eight hundred and forty, elect William Stewart Hunter to be a Trustee of the said Church in the room and stead of William Hunter, deceased; And whereas the said William Stewart Hunter and the said Donald Mackay, have since their said appointment departed this life, and the said William Ritchie having removed from the Province, and the said James Fleming having left the City of Montreal, John Boston, William Edmonstone, John Frothingham and James Gilmour were, according to the provisions of the Constitution of the said Church, duly appointed Trustees for the purposes aforesaid, in the room and stead of the said William Stewart Hunter, Donald Mackay, William Ritchie and James Fleming, and are now, together with the said Reverend Alexander Mathieson and John Smith, Trustees of the said Church; And whereas the said Reverend Alexander Mathieson, John Smith, John Boston, William Edmonstone, John Frothingham,

Preamble:

A certain Deed of sale dated 3rd May, 1805, &c. cited.

General meeting of 12th May, 1835, and election of Trustees.

Further election.

Deed of 4th December, 1847.

Description of certain lots of land, conveyed by the said Deed.

Want of Corporate powers, &c. recited.

Petition to the Legislature.

Trustees and their successors incorporated.

Corporate name and powers.

Frothingham, and James Gilmour, as such Trustees as aforesaid, by Deed passed before J. J. Gibb and colleague Notaries Public, bearing date at Montreal aforesaid, the fourth day of December, one thousand eight hundred and forty-seven, acquired by purchase from Mr. Edwin Atwater, of the said City of Montreal, merchant, "Those certain
 " two Lots of Land, situate, lying and being in the said City of Montreal, forming part
 " of the 'Beaver Hall Property,' known and distinguished on the plan of the said
 " Beaver Hall Property, as lots numbers one and three, bounded in front by La-
 " gauchetière Street, in rear by a new Street marked 'A' on the said plan, on one side
 " by Beaver Hall Terrace, and on the other side by property belonging to the heirs
 " Lamothe; the boundary line on Beaver Hall Terrace consists of a curved line whose
 " radius is about seventy-six feet four inches; the range line of the Streets, Beaver
 " Hall Terrace and LaGauchetière, when carried out to their points of intersection,
 " give on Beaver Hall Terrace, one hundred and sixty-three feet six inches, on La-
 " gauchetière Street one hundred and fifteen feet eight inches, on the line adjoining the
 " property of the heirs Lamothe one hundred and eighty-three feet three inches, and
 " on the new Street aforesaid one hundred and fifteen feet four inches, the whole
 " English measure, without warranty of precise measurement, together with a house
 " thereon;" as described in the said Deed, for the use and behoof of the said Congre-
 " gation of the said Church, and on which there is now being built a Church suitable
 " for the increased numbers of the said Congregation: And whereas the said Trustees
 " are not a body corporate, and have only a life estate in the said lots of ground and
 " buildings thereon erected, holden by them as aforesaid, which is transmissible to their
 " successors, to be elected according to the provisions of the Laws and Constitution of
 " the said Church; And whereas the election of Successors to the said Trustees from
 " time to time on their death, removal or necessary absence is subject to many difficul-
 " ties and delays, and is attended with much expense; And whereas the Reverend
 " Alexander Mathieson, Doctor in Divinity, Minister of the said Church of St. Andrew's
 " in Montreal, John Smith, John Boston, William Edmonstone, John Frothingham and
 " James Gilmour, Esquires, of the said City of Montreal, Trustees of the said Church,
 " by their humble Petition have represented the inconvenience resulting from the want
 " of a corporate capacity in them the said Trustees to enforce by legal process the
 " payment of the rents payable by the holders of Pews in the said Church, and that it
 " has now become necessary to sell the present Church in St. Peter Street aforesaid,
 " and provide a larger building for the accommodation of the said Congregation: Be it
 " therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and
 " consent of the Legislative Council and of the Legislative Assembly of the Province of
 " Canada, constituted and assembled by virtue of and under the authority of an Act
 " passed in the Parliament of the United Kingdom of Great Britain and Ireland, and
 " intituled: *An Act to re-unite the Provinces of Upper and Lower Canada, and for the
 " Government of Canada*, and it is hereby enacted by the authority of the same, That
 " the said Reverend Alexander Mathieson, John Smith, John Boston, William Edmonstone,
 " John Frothingham and James Gilmour, and the successors forever of the
 " said Reverend Alexander Mathieson, John Smith, John Boston, William Edmonstone,
 " John Frothingham, and James Gilmour, to be elected in the manner hereinafter
 " directed, shall be and they are hereby constituted and declared to be a Body Corporate
 " and Politic in name and in deed by the name and style of *The Minister and
 " Trustees of St. Andrew's Church, Montreal*, and shall be a perpetual Corporation, and
 " shall have perpetual succession, and a common seal, with power to break, change and
 " alter the same from time to time at pleasure and shall be in law capable of suing and
 " being

being sued, pleading or being impleaded, defending or being defended, answering or being answered unto, in all Courts of Judicature, in all manner of actions, suits, complaints, matters and causes whatsoever, and also of contracting and being contracted with, relative to the funds of the said Corporation, and the business and purposes for which it is hereby now constituted as hereinafter declared; and may make, establish and put in execution, alter or repeal such by-laws, rules, ordinances and regulations, as shall not be contrary to the constitution and laws of this Province or to the provisions of this Act, or to the constitution of the Church of Scotland, as in that part of the United Kingdom of Great Britain and Ireland called Scotland now by law established, and as may appear to the said Corporation necessary or expedient for the interests thereof; Provided always, that three of the members of the said Corporation shall form a *quorum* for all matters to be done and disposed of by the said Corporation.

By-laws.

Proviso us to
quorum.

II. And be it enacted, That the several lots of ground aforesaid, together with the buildings thereon erected, held by the Trustees aforesaid, shall be holden by the said Corporation to stand and be possessed thereof for ever to and for the several limitations, trusts, provisions and uses declared and expressed in respect of the same in and by the above referred to deeds of sale and declaration by the said Alexander Rea and William Hunter, as also by the terms under which the said Trustees are elected.

Lots of
ground, &c.
vested in
Corporation.

III. And be it enacted, That it shall and may be lawful for the said Corporation to accept any real estate, which hereafter may be gratuitously given, granted or bequeathed, for the use of the said Church, as shall not, together with that already holden by the said Trustees as aforesaid, exceed in value, and yield at any time more than a clear net yearly income of five hundred pounds; and that the said Corporation be and are hereby authorized and empowered to sell the lot of land and buildings thereon, situated in St. Peter Street aforesaid, and the price or purchase money thereof to apply to the completion and paying for the lot of land and the Church now building as aforesaid on the said lot of land situated on Beaver Hall, and in the preamble hereof lastly above described; Provided, nevertheless, that the purchaser shall not be liable for or bound to see to the application of the consideration money or any part thereof, and that the receipt for the same shall be a full discharge to him, and further that the said Corporation shall be empowered to sell or alienate the whole or any portion of the property held in trust by them, but they shall not be empowered to alienate or sell the property or any part thereof, except on a requisition signed by three fourths of the proprietors of pews in St. Andrew's Church aforesaid, of at least one year's standing, not in arrear of rent, and at the time residing within the Parish of Montreal; and no sale or alienation shall be valid, unless sanctioned by three fourths of the proprietors, qualified as aforesaid; the proceeds of any sale or alienation, so made and sanctioned, shall be the property of the Church and Congregation, and solely applicable to the maintenance of the public worship of God according to the form of the Established Church of Scotland, or the erection and endowment of a school or schools in connection with the said Church; Provided always, that no portion of real estate belonging to the said Congregation, shall be disposed of for the purpose of secular education, until such time as the net annual income of the said Church shall amount to at least three hundred pounds, current money of this Province.

Corporation
may accept
and hold real
estate to a cer-
tain amount:
may sell cer-
tain land.

Proviso.

Other land
may be aliened
on certain
conditions.

Proviso.

IV. And be it enacted, That it shall and may be lawful for the said Corporation, and they are hereby authorized and empowered to raise by way of mortgage on the said

Corporation
may raise
money by
mortgage, &c.

said two lots of land or either of them, or any portion thereof known as part of the Beaver Hall Property, and hereinbefore described, or the Church and Buildings thereon erected or hereafter to be erected and built thereon, such sum or sums of money as may be deemed necessary for the erection and completion of the said Church and its appurtenances, provided that the like consent shall be first had and obtained to mortgage for the purposes aforesaid, as is hereinbefore in the next preceding clause provided for the sale of the trust property.

Provision with respect to the filling of certain vacancies in Corporation.

V. And be it enacted, That when any vacancy or vacancies shall happen in the said Corporation by death, or the removal or change of residence of any of the members thereof from the parish of Montreal, or otherwise, the said vacancies shall be supplied in the manner hereinafter mentioned, as follows, to wit: when a vacancy shall happen by the death, removal or change of residence, or otherwise, of the said Reverend Alexander Mathieson or his successor in the ministry of the said Church, from the said Parish, District or otherwise, the same shall be supplied by his successor, Minister of the said Church; and when a vacancy or vacancies shall happen by the death, or removal, or change of residence of the said Reverend Alexander Mathieson, John Smith, John Boston, William Edmonstone, John Frothingham, and James Gilmour, or of their successors from the said Parish, or otherwise from time to time, the same shall be supplied by such person or persons as shall be elected to fill the same, by a majority of the votes of the proprietors of one year's standing, to wit, of pews in the said Church, not in arrear of pew rent, at a meeting to be convened as hereinafter mentioned.

Proceedings for filling a vacancy in the office of Minister of the Church.

VI. And be it enacted, That whenever a vacancy shall happen by the death, or removal, or change of residence of the Minister of the said Church, it shall be the duty of the Kirk Session, within eight days from the time of every such vacancy happening, to require by a notice or requisition to be published as the said Session shall determine, a meeting of the proprietors, pew holders, and members of the said Church, not in arrear of rent, to assemble in the said Church on a day not more than eight days after the day of such notification, at a convenient hour, for the purpose of taking the steps necessary for supplying such vacancy as aforesaid, by electing a Committee of nine, by a plurality of votes (seven to form a *quorum*), of whom six shall be proprietors of at least one year's standing, and in full communion with the said Church, and the remaining three may be pew holders who have paid rent for three years preceding their election, and are in full communion with the said Church, who shall have full power to take such steps as to them may seem best adapted for speedily obtaining a Minister to the said Church, a regularly ordained Minister or Licentiate of the Church of Scotland or of the Presbyterian Church of Canada in connection with the Church of Scotland; and at which meeting the senior member of the Session, if not prevented by illness or other cause, shall preside, or if so prevented, then the senior of the other members of the Session present shall preside thereat; and if at any such election there shall be an equality of votes, the Member of the Session so presiding shall have the casting vote.

Proceedings for filling vacancies among members.

VII. And be it enacted, That when any vacancy or vacancies shall happen in the said Corporation by death, or the removal or change of residence of any of the members thereof from the Parish of Montreal, or otherwise, other than in respect of the Minister of the said Church for the time being, it shall be the duty of the said Minister, within

within three calendar months from the time of every such vacancy happening, to require by a notice or requisition from the pulpit of the said Church, on two successive Sundays, to be published at such time in the forenoon service as he shall see fit, a meeting of the proprietors (not in arrear of rent) to assemble in the said Church at a convenient hour on a day not exceeding ten days after the day of such publication, for the purpose of supplying such vacancy or vacancies as aforesaid, by a person or persons who are proprietors in communion with the said Church, and who shall cease to be members of the said Corporation, if ever they cease to be members of the said Church, by joining in communion with any other church or religious society; at which meeting the said Minister, if not prevented by illness or other cause, shall preside, or, if so prevented, then the senior of the other members of the said Corporation present, shall preside thereat, and if at any such election there shall be an equality of votes, the Minister or other member so presiding, shall have the casting vote.

VIII. And be it enacted, That on a requisition signed by twenty proprietors or pew holders, specifying the object they have in view, it shall be the duty of the said Session to call a Public Meeting of proprietors or pew holders, to be held in the Church, within ten days after the receipt of the said requisition.

Public Meeting of Pew-holders, how to be called.

IX. And be it enacted, That there shall be opened and kept by the said Corporation a Register in which shall be entered and recorded, from time to time, the proceedings and transactions of the said Corporation, and which Register shall be open to the inspection of every proprietor or pew holder not in arrear of rent, at all reasonable times, and that on every election to supply such vacancies as aforesaid, the same shall be declared by an instrument to be forthwith made and executed under the hands of the member presiding thereat, and three of the members of the said meeting: which said instrument declaratory of such election shall at the diligence of the person elected at such meeting be caused to be enregistered in the Office of the Prothonotary of the Court of Queen's Bench for the district of Montreal, within one calendar month from the day of such election, which enregistration the said Prothonotary is hereby required to make at the request of the bearer of the said instrument; and for which enregistration and the certificate thereof, the said Prothonotary shall be entitled to demand and receive the sum of two shillings and six pence, currency, and no more: And in default of the enregistration of the said instrument within the time aforesaid, the said election shall be absolutely null and void, and the said Corporation shall proceed *de novo* to another election, and in the same manner as if no such election had taken place.

A Register to be kept for recording proceedings, &c.

Registration of certain instruments.

Consequences of default to enregister.

X. And be it enacted, That all deeds of gift and conveyance of real estate, which shall be made to the said Corporation, shall be enregistered within twelve calendar months after the execution thereof respectively, in the Office of the Prothonotary of the Court of Queen's Bench for the District, and also in the Registry Office of the District where such real estate shall be situate; which enregistration the said Prothonotary is hereby required to make at the request of the bearers of such deeds respectively, and for every such enregistration the said Prothonotary shall be entitled to demand and receive at and after the rate of six pence, currency, for every hundred words that the said deeds shall respectively contain, together with two shillings and six pence currency, for the certificate of such enregistration, and no more; and in default of such enregistration as aforesaid, of any such deed or deeds as aforesaid, within the time

Deeds of gift, &c. to Corporation to be enregistered within twelve months after execution.

aforesaid,

aforesaid, the same shall be absolutely null and void, and of no more force or effect than if the same had not been made or executed.

Her Majesty's
Rights saved.

XI. And be it enacted, That nothing herein contained shall affect or be construed to affect in any manner or way the rights of Her Majesty, Her Heirs and Successors, or of any person or persons, or of any body politic or corporate, such only excepted as are herein mentioned.

Public Act.

XII. And be it enacted, That this Act shall be deemed a Public Act, and shall be judicially taken notice of as such by all Judges, Justices of the Peace, and Ministers of Justice and other persons whomsoever, without being specially pleaded.

MONTREAL: Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CLV.

An Act to provide for the improvement of the River *du Chêne*, in the County of the Two Mountains.

[30th May, 1849.]

WHEREAS the Inhabitants of the Parishes of St. Eustache, St. Augustin, St. Benoit, and St. Scholastique, in the County of the Two Mountains, holding lands on the banks and in the neighbourhood of the River *du Chêne*, in the said County, suffer considerable damage in their meadows and the cultivation of their lands, which they find it impossible properly to work, by reason of the overflowing of the waters of the said River, which on account of its shallowness and numerous sinuosities, is not sufficient for the large quantity of water received from the great number of drains and streams discharging themselves into it during its course; And whereas the only remedy for those evils is to remove all obstructions from the said River, to deepen and widen its bed in the rapids thereof and other places, and more especially to straighten its course by a Canal to be cut in a more direct line, and more sufficient for the easy flowing of its waters, provided such Canal be not considered by the Commissioners hereinafter mentioned, to be too expensive, and do not in their opinion interfere too much with the division of property, to the injury of the proprietors thereof; And whereas a considerable number of the Inhabitants of the above mentioned Parishes, interested in the said works have, by their Petition, represented the hardships under which they labour, and also that the costs and expenses already incurred, and the attempts made by them in order to attain so desirable an object have been useless, as being on too limited a scale, in consequence of the insufficiency of the laws now in force to provide for an improvement of such importance, and have prayed that a law be passed to enable them to proceed with the said works, and it is expedient to grant the prayer of the said Petition: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That at any time within six months from the date of the passing of this Act, on a requisition signed by at least ten Proprietors of lands in the Parishes above mentioned, interested in the said Canal or water course, such requisition being published and posted up in both languages at the Church doors of the said Parishes after Morning Service, on two consecutive Sundays, the Inhabitants of the said Parishes interested in the said Works, that is to say: the Proprietors of lands the waters from

Preamble.

Ten proprietors interested may call a meeting, and the meeting may elect Commissioners for deepening the River, &c.

off

off which flow into the said River *du Chêne* shall meet on the day and at the place mentioned in the said requisition, (with power to any ten of them to adjourn or to call another meeting in case at least twenty-five Proprietors be not assembled to elect Commissioners as hereinafter provided,) and a majority of Proprietors present at such meeting, or at any adjourned or subsequent meeting, shall elect from among the said Proprietors twelve Commissioners, whose duty it shall be to proceed with the Works mentioned in the Preamble to this Act, in the manner hereinafter mentioned, and who for the purposes of this Act are hereby authorized to sue and be sued under the name of *The Commissioners of the River du Chêne Canal*, without otherwise naming them or any of them.

Commissioners to elect a President and Secretary-Treasurer.

II. And be it enacted, That the said Commissioners shall elect from among themselves a President, and shall also appoint from among themselves or the other interested parties, a Secretary-Treasurer, who shall be paid a reasonable salary at the discretion of the Commissioners, and shall give good and sufficient security to the satisfaction of the majority of the said Commissioners; and any Writ, Process or Notice that may require to be served upon the said Commissioners shall be served upon the Secretary-Treasurer of the said Commissioners, and such service thereof shall be deemed good and valid in law; and seven of the said Commissioners shall form a *quorum*, and may exercise all the powers of the said Commissioners, and may, in case of any vacancy among the said Commissioners, appoint another or others in their stead from among the Proprietors interested as aforesaid; but the non-filling up of any such vacancy shall not in any way invalidate or affect any proceeding by or against the said Commissioners; and all questions which shall arise at any meeting of the said Commissioners shall be decided by a majority of the voices of such Commissioners as shall be present, other than the President; and when the voices shall be equal the President shall have the casting vote.

Quorum of Commissioners fixed.

Questions how decided.

Survey, plan and estimate to be made, &c.

III. And be it enacted, That the said Commissioners shall cause the said River *du Chêne* to be explored by a Sworn Surveyor from its mouth at River *Jésus* or *Mille Isles*, in the Parish of St. Eustache, to its source, together with its tributaries and the streams which discharge themselves into it in its course through the North and South Concessions of the *Petite Rivière de la Grande Fresnière*, the Parish of St. Eustache, north and south of the *Petit Brulé*, the Parishes of St. Augustin, St. Benoit, St. Joachim, and on the north and south side of *la Belle Rivière*, in the Parish of Ste. Scholastique, and shall cause a plan to be made of the works necessary for the straightening and deepening of the said River, together with an estimate of the probable cost of the said undertaking.

Work to be given out by tender and contract.

IV. And be it enacted, That the said Commissioners shall give notice in both languages during at least three weeks, in the *Canada Gazette*, and also in two newspapers published, the one in English and the other in French, in the City of Montreal, of the time and place at which they will be ready to give out the said works in part or in whole, and they are hereby authorized to contract for the performance of the said works with the Contractors and Workmen whose tender shall to them seem most advantageous for the interests of the parties concerned in the said undertaking; and the said Commissioners are hereby authorized to require the said interested parties to furnish such assistance in labour as they shall deem necessary for the purpose of conducting the undertaking with as great economy as possible, making such labour part of the charge placed upon such parties respectively by the Repartition.

Parties interested may be required to give work.

V. And be it enacted, That the said Commissioners shall make an exact estimate of all the expenses to be incurred in the construction of the said works, and of the work to be done by the parties interested as aforesaid, and shall assess the interested parties for the payment of the same, and assign them respectively portions of the said work, according to the advantages to be derived by each one, and the obligations under which he may lie with regard to the other proprietors interested, according to the situation of his property, and the laws and customs in force in the country, and not merely according to the value of the properties assessed: the whole in such a manner as to the said Commissioners shall appear most equitable; and the said Commissioners or a *quorum* thereof shall make a Repartition and *procès-verbal* accordingly, which shall bind all the parties mentioned therein or their *ayants cause* respectively Proprietors of the same lands, upon which the sums assessed upon them and the value of the work allotted to them in respect of such lands, (such value being mentioned in the Repartition and *procès-verbal*) shall be a charge bearing hypothec, dating from the time of registration of the Repartition and *procès-verbal*, which after being confirmed as hereinafter provided shall not be controvertible or liable to be set aside or questioned in any Court of law or elsewhere.

Further estimate to be made; and parties interested to be assessed.

Repartition and *procès-verbal* to be made.

Assessment, &c. to be a charge upon the lands assessed, &c.

VI. And be it enacted, That after the said estimate of the expenses, and the assessment or repartition and *procès-verbal* shall have been made by the Commissioners, they shall give notice by an advertisement in both languages, to be posted up and published at the Church doors of the said Parishes, after morning service during two consecutive Sundays, of the time and place at which they will hear the claims of such parties as shall consider themselves aggrieved by the said assessment or repartition.

Commissioners to hear parties deeming themselves aggrieved.

VII. And in order that all parties interested in the performance of the said works may take cognizance of the assessment or repartition and *procès-verbal* aforesaid, a copy thereof signed by the President, Secretary, and Treasurer of the said Commissioners, shall be deposited in some public office to be designated in the said Notices, and whereat all or any of the interested parties may take free communication thereof, and make such observations thereon, or oppositions thereto, as they may think fit and reasonable.

Repartition, &c. to lie for a certain time open for inspection.

VIII. And be it enacted, That the Commissioners shall give their final decision with respect to the said assessment or repartition and *procès-verbal* within a period of not less than fifteen days from the last publication thereof, and shall then confirm the same with such alterations (if any) as they may think proper to make thereto.

Commissioners may amend and confirm the Repartition, &c.

IX. And be it enacted, That the said assessment or repartition and *procès-verbal*, when finally confirmed as aforesaid, shall be deposited by the said Commissioners, or a *quorum* of them, in the hands of some Notary in one of the said Parishes, who may deliver authentic copies or extracts, and shall be bound at all reasonable hours to give communication thereof to all parties interested, and shall be registered at full length in the Registry Office of the County; and the said Commissioners shall immediately give notice, by an advertisement in both languages, to be posted up and published at the Church doors of the said Parishes after morning service, during two consecutive Sundays, of the said assessment or repartition and *procès-verbal* having been deposited in the hands of such Notary.

Repartition, &c. to be deposited with a Notary;

and registered.

How the payment of moneys and the performance of work may be enforced.

X. And be it enacted, That every person who shall be assessed in and by the said assessment or repartition and *procès-verbal*, as finally amended and confirmed by the Commissioners shall pay into the hands of the Treasurer of the said Commissioners within the delays by them therein prescribed, the amount for which he shall be assessed, and in default thereof such payment may be recovered before any Court having jurisdiction in civil cases to the amount, and he shall perform the work by them assigned to him at the times appointed by the assessment, or repartition and *procès-verbal* aforesaid, or in default the value of such work, as therein fixed, may be recovered from him as aforesaid.

Appeal from the final decision of the Commissioners to a Circuit Judge.

XI. Provided always, and be it enacted, That any such person who may feel aggrieved by the final decision of the said Commissioners as aforesaid, may appeal therefrom by petition to any one Circuit Judge in and for the District of Montreal, setting forth the grounds of his objection to the said decision, and praying that the same may be reversed; which petition must be presented within fifteen days at most from the last publication of the notice of deposit of the said assessment or repartition and *procès-verbal*; and upon proof of a copy of the said petition, together with notice of the time and place, when and where the same would be so presented, having been served upon the Secretary-Treasurer of the said Commissioners three clear days at least before the presentation thereof, it shall be lawful for the said Circuit Judge to fix a time and place, either in Term or in vacation, in Court or out of Court, in the City of Montreal, or at some convenient place within the said County, or at the sitting of any Circuit Court that may be held within the limits thereof, when and where he will proceed, and then and there to proceed in a summary manner to hear the said appellant, and the said Commissioners, and adjudicate upon the said appeal; and the decision of such Circuit Judge shall be final and conclusive; and in case any alteration shall be thereby made in the said assessment or repartition and *procès-verbal*, it shall be the duty of the Registrar of the said County, on a copy of such decision, certified by the said Circuit Judge, under his hand and seal, being brought to him forthwith, to register the same at full length, or to enter and file the same, as the case may require.

Decision of Circuit Judge to be final.

Commissioners may make regulations as to the said River, &c.

Proviso: When the powers of the Commissioners shall cease, and the River come under the local authorities, &c.

XII. And be it enacted, That the said Commissioners are hereby authorized to make such rules and regulations as they shall deem necessary for the preservation and keeping in order of the said Canal, and from time to time to alter and amend the same; and such rules and regulations, and amendments, or repeal thereof, shall be deposited with some Notary in one of the said Parishes: Provided always, that as soon as the said intended works shall be completed and paid for, the powers and authority hereby granted to the said Commissioners shall cease and determine; and the said River and Canal shall thereafter be and remain under the direction of the local authorities established for the making of ditches and water courses in the country parts of Lower Canada, saving always that the said works shall always continue to be kept up and repaired according to the rules and regulations then last made by the said Commissioners an authentic copy whereof shall be deposited in the office of the Municipal Council of the County, and any copy thereof certified by the Clerk or Officer having the custody of such authentic copy, shall be deemed authentic, and received in evidence accordingly, and for any certified copy thereof, the said Clerk or Officer shall be paid at the rate of six pence currency per one hundred words.

XIII. And be it enacted, That as soon as the said Canal shall be completed, the said Commissioners shall render a true and faithful account of the moneys levied by them, and of the application thereof, before a Committee of twelve members to be chosen from among the interested parties, at a General Meeting to be called in the manner provided for the calling of the first above mentioned Meeting ; And the said Committee shall have authority to bring any action *en reddition de compte* or for any matter relative to the administration of the said Commissioners under the name of *The Committee for auditing the Accounts of the Commissioners of the River du Chêne Canal.*

Account to be rendered by the Commissioners and to whom.

XIV. And be it enacted, That all papers relative to the rendering of the above mentioned accounts, plans, estimate, assessment, and other documents which shall have been in the possession of the Commissioners, and more especially the rules and regulations made for the keeping in repair of the said Canal, shall be deposited by them in the office of the Municipal Council of the County of the Two Mountains for the use of all persons interested in the said work.

Deposit of papers, plans, &c.

XV. And be it enacted, That the works above mentioned for the construction of the said Canal shall be completed within six years from the passing of this Act, otherwise the persons so interested as aforesaid shall not be entitled to any of the advantages granted by this Act.

When the works must be completed.

XVI. And be it enacted, That this Act shall be a Public Act, and judicially noticed accordingly.

Public Act

MONTREAL : Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CLVI.

An Act to alter and amend the Charter of *The Great Western Rail-road Company.*

[30th May, 1849.]

WHEREAS in and by the Act passed in the ninth year of Her Majesty's Reign, and intituled, *An Act to alter and amend the Charter of the Great Western Rail-road Company*, certain extraordinary powers, rights and privileges were granted to the Stockholders resident in England and a Corresponding Committee established in London, England, in consideration of the large amount of capital stock of the Company held in that country ; And whereas the President and Directors of the said Company have by petition, by and with the consent of the English Stockholders, prayed for the repeal of so much of said recited Act as relates to the establishment of the said Corresponding Committee, and so place the said Stockholders on the same common ground with the other Stockholders of the Company ; And whereas it is proper to grant such petition : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the provisions of the said recited Act, so far as they are inconsistent with this Act and the provisions herein contained, shall be, and the same are hereby repealed.

Preamble.
 9 Vict. c. 81.

Provisions inconsistent with this Act repealed.

II. And be it enacted, That so much of the first Section of the said Act as relates to affording protection to the English Stockholders of the said Company, be, and the same is hereby repealed.

Part of Sect. 1 repealed.

III. And be it enacted, That the second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, sixteenth, seventeenth, eighteenth, nineteenth, twentieth, twenty-first and twenty-second Sections of the said recited Act, be, and the same are hereby repealed.

Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, and 22, repealed.

IV. And be it enacted, That any Shareholder in the said Company, be he or she a British Subject or alien, a resident in Canada or elsewhere, shall have equal rights to hold stock in the said Company, to vote on the same, and be eligible to office in the said Company.

All Shareholders to have equal rights.

V.

Shareholders
may vote by
proxy—one
vote for each
share.

V. And be it enacted, That every Shareholder in the said Company shall be entitled to appoint any person whomsoever, being also a Shareholder, to vote and act for him or her by proxy, at all general meetings of the Company, and for the election of Directors, and that each Shareholder shall be entitled to give one vote for each and every share of capital stock held by him or her.

Eleven Direc-
tors instead of
Seven.

VI. And be it enacted, That the number of Directors in the said Company shall be and consist of eleven instead of seven.

Public Act;

VII. And be it enacted, That this Act is and shall be for all purposes and in all Courts of Justice regarded as a Public Act, and the same as such shall be judicially noticed without being specially pleaded.

MONTREAL :—Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CLVII.

An Act to incorporate *The Markham and Elgin Mills Plank Road Company.*

[30th May, 1849.]

WHEREAS the inhabitants of the Townships of Markham and Whitchurch, and of the Townships to the east and north-west have been subject to great inconvenience in bringing the produce of their farms to the City of Toronto, their almost exclusive market, in consequence of the extreme badness of the roads over which they have to travel; And whereas it would tend much to improve that section of the country and confer benefits on the inhabitants of the said Townships and surrounding country if the side lines between Lots Numbers twenty-five and twenty-six in the Township of Markham, and one or more of the concessions running northerly from the said line were planked, macadamized or gravelled, the said road commencing at Yonge Street near Elgin Mills, and terminating at the eastern extremity of the Township of Markham, and the concession line or lines to be so planked, macadamized or gravelled commencing at the said side line and terminating on the given line between the townships of Markham and Whitchurch; And whereas Ashton Fletcher, Benjamin Bowman and others have petitioned the Legislature to be by law incorporated for the purposes of effecting the said improvements by means of joint Capital Stock, and it is expedient to grant the prayer of the said petition: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the said Ashton Fletcher and Benjamin Bowman, together with all such other persons as shall become Stockholders in such joint Capital or Stock as hereinafter mentioned, shall be and are hereby ordained, constituted and declared to be a Body Corporate and Politic in fact, by the name of *The Markham and Elgin Mills Plank Road Company*, and by such name they and their successors shall and may have continued succession, and by such name shall be capable of contracting and being contracted with, of suing and being sued, pleading and being impleaded, answering and being answered unto, in all courts and places whatsoever, in all manner of actions, suits, complaints, matters and causes whatsoever, and that they and their successors may and shall have a Common Seal, and may change and alter the same at their will and pleasure, and also that they and their successors, by the said name of *The Markham and Elgin Mills Plank Road Company* shall be in law

Preamble.

Description of the road.

Certain persons incorporated.

Corporate name and powers.

law capable of purchasing, having and holding to them and their successors, any estate, real, personal or mixed, and which may be necessary for the use of the said Company, and of selling, conveying or otherwise parting therewith, for the benefit and on account of the said Company, from time to time as they shall deem necessary or expedient, and shall have full power and authority to macadamize or plank the road or roads mentioned and described in the preamble to this Act, to erect Toll-gates and to take tolls thereon in the manner hereinafter mentioned, when the same shall be completed, or so much of it as may be completed between Yonge Street and the eastern extremity of the Township of Markham.

When the Company may erect a Toll-gate, and take Toll.

II. Provided always, and it is hereby enacted and declared, That so soon as two and a half miles of the said road or roads shall have been completed, it shall and may be lawful for the Directors of the said Company to put up and erect a Toll-gate thereon, and collect such tolls as the Directors may think expedient to be levied and taken of and from persons travelling along the said road or roads.

Company may purchase real estate to complete the road.

III. And be it enacted, That the said Company shall have full power and authority, for the purpose of forming and completing the said road or roads, to purchase and hold in their corporate capacity such real estate as may be necessary for all the purposes of the said road or roads and of this Act.

Amount of Capital Stock of Company.

Value of each share.

Proviso.

IV. And be it enacted, That the whole Capital Stock which the said Company may have or hold by virtue of this Act, shall be four thousand pounds, with power to increase the same to double that amount if found necessary for constructing the said road or roads, and that the said Capital Stock shall be composed of shares of the value of five pounds currency each, and that the said shares of the said Capital Stock shall be transferable, and may be from time to time transferred by the respective persons so subscribing or holding the same to other person or persons: Provided always, that such transfer be entered or registered in a book or books to be kept for that purpose by the said Company.

Subscription to bind the persons subscribing.

Amount of calls may be recovered if not paid.

What must be alleged and proved in the suit.

V. And be it enacted, That all subscriptions for a share or shares in the Capital Stock of the said Company, or to the undertaking for carrying out which the said Company is incorporated, shall be good and valid, and binding on the shareholders, whether made before or after the passing of this Act and the several persons who have subscribed, or who may hereafter subscribe for shares in the said undertaking or Company, shall and they are hereby required to pay the sum or sums of money by them respectively subscribed, or such part or portion thereof as shall from time to time be called for by the Directors of the said Company, under and by virtue of the powers and directions of this Act, to such person or persons, and at such times and places as shall be directed or required by the Directors, and in case any person or persons shall neglect or refuse to pay the same, at the time and in the manner required for that purpose, it shall be lawful for the Directors to cause the same to be sued for and recovered, together with interest, in any Court of Law or Equity in this Province, having competent jurisdiction in civil cases, to the amount; and in any such action whether for the subscription already made or hereafter to be made, it shall not be necessary to set fourth the special matter in the declaration but it shall be sufficient to allege that the Defendant is holder of one or more shares (stating the number of shares) in the Stock, and is indebted to the Company in the sum to which the calls in arrear may amount,

amount, and in any such action it shall be sufficient to maintain the same, that the signature of the Defendant to some book or paper, by which it shall appear that such Defendant subscribed for, or authorized or caused any person to subscribe on his account and behalf, for a share or a certain number of shares of the Stock of the said Company or undertaking be proved by one witness whether in the employment of the Company or not, and that the number of calls in arrear have been made, and the suit may be brought in the Corporate name of the Company.

VI. And be it enacted, That the Stockholders of the said Company shall be liable for all debts, due by the said Company, to the extent only of their respective share or shares.

Liability of shareholders limited.

VII. And be it enacted, That within sixty days after the passing of this Act, Books of Subscription shall be opened at Crossby's Corners, in the Township of Markham, at the office at Elgin Mills, in the Township of Vaughan, and at such other places as the Directors may appoint by such person or persons and under such regulations within the meaning of this Act as the said petitioners or the majority of them shall by writing direct.

Books of Subscription to be opened, &c.

VIII. And be it enacted, That the said Books of Subscription shall remain open for subscription for thirty days, during which time no person subscribing shall so subscribe for more than twenty-five shares, but if after the expiration of the said thirty days any stock should remain not taken up, then it shall be lawful for the said subscribers or any of them, or any other person or persons to subscribe for any greater or less number of shares, so long as any of the said stock may remain unsubscribed for.

Books of Subscription to remain open thirty days.

IX. And be it enacted, That all and every of the subscribers for the said stock or any part thereof, shall at the time of subscribing pay a proportion of two shillings and six pence per share upon the Capital Stock of the whole number of shares, for which they or any of them respectively may subscribe, and that such proportion so paid and deposited at the time of subscription shall be at the disposal of the Directors hereinafter mentioned, to and for the purposes of this Act in manner as hereinafter is directed, and that the residue of the sum or shares of Subscribers and Stockholders shall be payable by instalments, at such time and in such proportion as the Directors may deem fit: Provided always, that no demand be made by the said Directors upon the Stockholders for any sum exceeding ten shillings per share at any one time.

Proportion to be paid at the time of subscribing.

Proviso.

X. And be it enacted, That if any Stockholder as aforesaid, shall refuse or neglect to pay at the time required, any such instalment or instalments as shall be lawfully required by the Directors, as due upon any share or shares, then such Stockholder so refusing or neglecting shall forfeit such share or shares as aforesaid, with the amount previously paid thereon, and the said share or shares may be sold by the said Directors, and the sum so arising therefrom, together with the amount previously paid thereon, shall be accounted for and divided in like manner as other moneys of the said Company: Provided also, that nothing in this Act shall prevent any Stockholder from paying up the amount he subscribes for at any time to the Directors, and the same shall be allowed to him by the said Company.

Penalty for refusing to pay instalments.

Proviso.

Meeting to be called for election of Directors.

XI. And be it enacted, That as soon as one half of the Capital Stock of the said Company is *bonâ fide* subscribed for, it shall and may be lawful for the Subscribers, or the majority of them, upon thirty days' notice being given by placing not less than ten advertisements in the most conspicuous and most public places in the neighbourhood, calling a General Meeting of the Stockholders to be held at Read's Corners, Crossby's Corners or at Elgin Mills, as may hereafter be determined upon by the Committee of Management, for the purpose of proceeding to the election of Directors as hereinafter mentioned, and the persons then and there chosen being Stockholders shall be capable of serving until the first Saturday in January, one thousand eight hundred and fifty, and the said Directors so chosen shall commence the business of the said Company, and proceed therein until the first subsequent election of annual Directors as hereinafter mentioned.

Stock, &c. to be managed by Directors.

XII. And be it enacted, That the stock, property, affairs and concerns of the said Corporation shall be managed and conducted by seven Directors, one of them to be the President, who shall hold his office for one year, which Directors shall be Stockholders, and shall be inhabitants of the Home District, and shall be elected on the first Saturday in January in each and every year, at such time of the day and at such place in the said Township of Markham, as the majority of the Directors for the time being, after thirty days' public notice, shall appoint: Provided nevertheless, that the first Board of Directors to be chosen by the Subscribers as aforesaid, shall continue in office until the first Saturday in January, one thousand eight hundred and fifty, as in the last section provided, and no longer, unless re-elected.

Proviso.

Election how to be made.

XIII. And be it enacted, That the election of Directors shall be held and made by such Stockholders of the said Company as shall attend at such of the three above mentioned places, as shall be determined upon as aforesaid, for that purpose, in their own proper persons or by proxy, and shall be determined by ballot, such ballot to be regulated and calculated by the number of votes allowed to such Stockholders according to the number of shares held by them respectively, as follows, that is to say: one share, one vote; five shares, two votes; ten shares, four votes; twenty shares and upwards, five votes. Provided always, that the Stockholders so voting shall be possessed of the share or shares in respect of which they shall respectively vote at least one month before the time of election, and no person, co-partnership or body politic, shall be entitled to more than five votes at any such election, or at the determination of any other matter or thing concerning the said Company, or its affairs, which may by the provisions of this Act be submitted to the judgment and decision of the Stockholders generally: Provided also, that the choice of the scrutineers hereinafter mentioned, and of the President, be had as hereinafter expressly directed.

Votes.

Proviso.

Proviso.

Directors to be Stockholders, &c.

XIV. And be it enacted, That the Directors to be chosen shall be Stockholders in the said Company, and shall hold to their own use five shares at least, and that all and every co-partnership and co-partners, body and bodies politic or corporate, holding any share or shares of the Stock of the Company, shall each of them vote only as an individual Stockholder, nor shall two or more persons belonging to any such co-partnership or co-partnerships, body or bodies politic or corporate, be capable of being nominated, chosen or of sitting as Directors, although such persons may hold stock in their private right, or to their private use in the said Company.

XV. And be it enacted, That of the persons as aforesaid nominated and balloted for in the manner aforesaid, those shall be deemed elected who shall have the greatest number of votes according to the shares held by the voters respectively, as hereinbefore prescribed, at each and every such election of Directors; and at each and every such election on the first Saturday of January, in each and every year as aforesaid, after the ballot shall have been kept open from eleven of the clock in the forenoon to four of the clock in the afternoon, the persons having the majority of the votes in manner aforesaid, shall so soon thereafter as convenient on the same day, be declared the Directors chosen for the ensuing year, by any two or more Scrutineers who shall have been previously nominated by the Stockholders, for the purpose of nomination and report of such ballot; Provided nevertheless, that the Stockholders present at the place of ballot shall in the nomination of Scrutineers vote *per capita*, and not by shares.

Persons having the greatest number of votes to be elected.

Proviso.

XVI. And be it enacted, That the said Directors in the same day and place wherein they shall have been so chosen and declared Directors, shall, after all other persons have retired, choose by plurality of voices one of their number to be President, in which choice the Directors shall vote *per capita* and not by shares.

President to be elected.

XVII. And be it enacted, That in case of a vacancy among the Directors, by death or absence for more than two months from the sittings of the said Board, such vacancy shall as often as necessary be supplied until the first Saturday in January following, by the remaining Directors, at a Special Meeting of the Board, called by the President.

Provision in case of vacancies.

XVIII. And be it enacted, That all questions submitted to or coming before the Board of Directors, concerning the affairs of the said Company, as well as the appointment of Director or Directors to fill up vacancies in their own number, shall be decided by the majority of voices; Provided always, however, that the President of the said Company shall have no other than a casting vote.

All questions to be decided by a majority of voices.

Proviso.

XIX. And be it enacted, That the Directors for the time being, or the majority of them, shall have power to make and subscribe such Rules and Regulations, and the same to alter and amend as to them shall appear needful, just and proper, touching the management and disposition of the stock, property, estate and effects of the said Corporation, and touching the duties and conduct of the clerks and servants employed by the said Company, and shall have power to make and subscribe in the name of the said Company all contracts for labour, work, materials, and all matters concerning the construction of the said road, and after the same be completed, concerning the tolls of the said road, other matters and things concerning as well the construction of the said road, its charges, tolls, profits, losses, dividends, and revenue whatsoever, such Rules and Regulations not being contrary to this Act nor to the Laws of this Province.

Directors to make Rules and Regulations.

XX. And be it enacted, That it shall and may be lawful for the President and Directors of the said Company from time to time to order and establish the rates of toll payable by persons travelling upon the said road; it shall not however be lawful for the said Directors to establish or collect or allow to be collected, any rate of toll for any horse, beast, or any other cattle or carriage employed in carrying or conveying, having been employed only in carrying on the same day, any grain thrashed or unthrashed to the barn, potatoes or any other farm produce grown upon the farm, or taking

President and Directors to establish rates of Toll.

Exemptions from Toll.

taking any seed or plants to the fields of the farm, dung, soil or compost of manure for the improving lands, any ploughs or harrows in actual use, unless laden also with some other thing not hereby exempted from toll, or for any horse or other beast employed in going to or returning from plough or harrow, or to or from pasture or watering place, or going or returning from being shod or farried, such horse or horses or other beast not going or returning on those occasions more than one mile on the Macadamized or Plank Road.

Further exemptions from Toll.

XXI. And be it enacted, That Her Majesty's Mail, and all persons, animals, and carriages employed in the conveyance thereof, Her Majesty's officers and soldiers being in proper Staff or Regimental or Military uniform, dress or undress, and their horses (but not when passing in hired or private vehicles,) and all carriages or horses belonging to Her Majesty, or employed in Her service, when conveying persons in such service or returning therefrom, and all recruits marching by route, and all persons, animals and carriages attending funerals, on any day of the week, or going to or returning from Divine Service on the Lord's Day, shall pass toll free through any turnpike or toll gate to be erected under the authority of this Act.

Penalty on persons destroying Toll-gates, &c.

XXII. And be it enacted, That if any person or persons shall cut, break down or destroy in any way, any of the gates or toll-houses to be erected by virtue of this Act, every such person so offending and being lawfully convicted, shall be deemed guilty of a misdemeanor and be punished by fine and imprisonment, and if any person or persons shall remove any earth, stone or timber, on the said road or roads, to the damage of the same, or shall forcibly pass or attempt to pass by force any of the gates without having first paid the legal toll at such gate, such person or persons shall pay all damages by them committed, and shall forfeit and pay a fine not exceeding five pounds nor less than ten shillings currency, to be recovered before any Justice of the Peace for the Home District.

Levying and application of fines, &c., levied under this Act.

XXIII. And be it enacted, That the fines and forfeitures authorized to be imposed by this Act, shall and may be levied and collected by distress and sale of the offender's goods and chattels under the authority of any warrant or warrants for that purpose to be issued by any one of Her Majesty's Justices of the Peace for the Home District, who are hereby authorized and empowered to grant the same, and in case there shall be no such goods and chattels to satisfy such warrant or warrants, such offender or offenders may be committed by such Justice or any other Justice of the said District to the Common Gaol of the Home District for any period not exceeding twenty days.

Penalty on persons evading Tolls.

XXIV. And be it enacted, That if any person or persons shall after proceeding on the said road with any carriage or animal, liable to pay toll, turn out of the said road into any other road, and shall enter the said road beyond any of the said gate or gates without paying toll, whereby such payment shall be avoided, such person or persons shall for every such offence forfeit and pay a sum not exceeding five pounds nor less than five shillings currency, which said sum shall be expended on the said road, or towards discharging any debt or other incumbrances thereon, and any one Justice of the Peace for the Home District shall on conviction of such offender, fine such offender in the said penalty, and from his judgment there shall be no appeal.

XXV. And be it enacted, That if any person or persons occupying or possessing any enclosed land near any toll-houses or toll-gates which shall be erected in pursuance of this Act, shall knowingly permit or suffer any person or persons to pass through such land or through any gate, passage or way thereon, with any carriage, horse, mare, gelding or other animal liable to the payment of toll, whereby such payment shall be avoided, any person or persons so offending and also the person riding or driving the animal or animals, or carriage whereon such payment is avoided, being thereof convicted, shall for every such offence severally forfeit and pay any sum not exceeding five pounds currency, which shall be laid out in improving such road.

Penalty on persons assisting others to evade Tolls.

XXVI. And be it enacted, That the Executive Government of this Province may at any time whatever assume and take the said entire estate, property, and use of the said road from the said Company, paying to the said Company the Capital so as aforesaid actually expended, together with ten per centum advance thereupon.

Government may assume property of the Company.

XXVII. And be it enacted, That the said Company shall have full power and authority for the purpose of forming and completing the said road, to purchase and hold, in their corporate capacity, such real estate as may be necessary for all the purposes of the said road, and of this Act.

Company may purchase real estate necessary for road,]

XXVIII. And be it enacted, That the Directors of the said Company for the time being shall have full power to contract, compound, compromise and agree with the owners and occupiers of land through or upon which the said road may most advantageously pass and terminate.

May compromise with owners of land, &c.

XXIX. And be it enacted, That if in the making of such contract, composition, compromise or agreement, any obstacles should arise between the parties thereto, touching the value of the portion of the land to be bought for the purposes aforesaid, then and in such case it shall and may be lawful for the Directors for the time being, from time to time, as they or the majority of them may think fit, to appoint one or more person or persons as Arbitrator or Arbitrators on the part of the said Company, and also for the party or parties disagreeing as to the value as aforesaid, to appoint one or more person or persons, being an equal number with those chosen by the said Directors as Arbitrator or Arbitrators on his, her or their part; and that the persons so chosen on both sides shall, having met for that purpose, choose by ballot one other indifferent person, and the whole number of persons so chosen shall be the Arbitrators between the parties disagreeing; and the said Arbitrators shall be sworn by a Justice of the Peace, justly, impartially and equally, as far as in them lies, and to the best of their judgment, to determine the matter to be to them referred.

Arbitration in case of difference.

XXX. And be it enacted, That if after eight days' notice in writing given to the party so disagreeing as to the value aforesaid, such party shall not nominate or appoint an Arbitrator or Arbitrators as aforesaid, on his part, it shall and may be lawful for the Directors to add to their first nomination as many others (not being Stockholders of the said Company), as and for the Arbitrators of the party so refusing to nominate for himself, and such added Arbitrators shall have the same power as if named by the party himself, and shall meet and ballot for the additional Arbitrator.

Provision in case of party refusing to appoint an Arbitrator.

XXXI. And be it enacted, That the Board of Arbitrators so constituted shall fix a convenient day for hearing the respective parties, and shall give eight days' notice at least

Day to be fixed for hearing parties.

least of the day and place, and having heard the parties or otherwise examined into the merits of the matters so brought before them, the said Arbitrators or a majority of them shall make their award and arbitrament thereupon in writing, which award or arbitrament shall be final as to the value so in dispute as aforesaid.

Provision if the party will not accept the sum ascertained by Arbitrators.

XXXII. And be it enacted, That if the party so disagreeing refuse to accept the value of the land so ascertained by the Arbitrators as aforesaid till the end of the second Term in Her Majesty's Court of Queen's Bench in Upper Canada, next after making the award and tender of the value thereby ascertained, then and in such case the Directors for the time being shall be at liberty, and shall have full power to occupy the piece of land so valued by the said Arbitrators, and to macadamize or plank it in the same manner as other portions of the said road.

Award may be pleaded in bar, in ejection, &c.

XXXIII. And be it enacted, That in any action of ejection or other action, real, personal or mixed, for or on account of such occupation by the said Company, their servants or agents, or other person or persons using the said road, the said award may be pleaded in bar to such action at any time after the said two Terms in the said Court of Queen's Bench, notwithstanding any defect in form or substance in the said award: Provided always, and it is hereby enacted and declared, that it shall and may be lawful to or for the party or parties interested in the land mentioned in the award, or their agent, by counsel, at any time within the two next Terms as aforesaid, after the same hath been made, and the amount of the value awarded tendered, to move the said Court of Queen's Bench to set aside such award for corruption, or any other matter or thing for which awards are now subject to be impugned by law; Provided also, that if the first award be so set aside by the Court of Queen's Bench, the matter in difference may again be submitted to other Arbitrators, and so on till a satisfactory award be made between the parties.

Proviso.

Proviso.

Failure of elections, &c., provided against.

XXXIV. And be it enacted, That in case it should at any time happen that an election of Directors should not be made on the day when pursuant to this Act it ought to have been made, the said Corporation shall not for that cause be deemed to be dissolved, but it shall and may be lawful on any other day to hold and make an election in such manner as shall have been regulated by the Rules of the said Corporation to be made for that purpose, such Rules not being contrary to the provisions of this Act.

Directors to make annual dividends.

XXXV. And be it enacted, That it shall be the duty of the Directors to make annual dividends of so much of the profits of the said Company as to them or a majority of them shall appear advisable, and an exact and particular statement shall be annually rendered of the state of their affairs, debts, credits, profits and losses, and such statements shall appear in the books of the Company, and be open to the perusal of any Stockholder upon his reasonable request.

Public Act.

XXXVI. And be it enacted, That this Act shall be deemed and taken to be a Public Act, and as such shall be judicially noticed by all Judges and Justices of the Peace and other persons without being specially pleaded.

Its duration.

XXXVII. And be it enacted, That this Act from the time of the passing thereof shall continue in force for fifty years, and from thence to the end of the then next ensuing Session of the Provincial Parliament.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CLVIII.

An Act to incorporate *The City of Kingston Water Works Company.*

[30th May, 1849.]

WHEREAS the supplying of the City of Kingston with Water would be of great public advantage, and whereas the City of Kingston, under their Common Seal, and Francis Manning Hill, William Ford, Junior, Thomas Weeks Robinson, John Richardson Forsyth, George Baxter, Archibald John Macdonell, William Allan Geddes, Thomas Kirkpatrick, Stephen Aldritch Irons, John Quiggin, George Alexander Cumming, Horatio Yates, and John Mowat, inhabitants of said City of Kingston, have by their petitions, prayed that the said Francis Manning Hill, William Ford, Junior, Thomas Weeks Robinson, John Richardson Forsyth, George Baxter, Archibald John Macdonell, William Allan Geddes, Thomas Kirkpatrick, Stephen Aldritch Irons, John Quiggin, George Alexander Cumming, Horatio Yates, and John Mowat, and others who may become associated with them in the undertaking may be incorporated under the style and title of *The City of Kingston Water Works Company*, the better to enable such institution to supply the said City of Kingston and its vicinity with Water: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the said Francis Manning Hill, William Ford, Junior, Thomas Weeks Robinson, John Richardson Forsyth, George Baxter, Archibald John Macdonell, William Allan Geddes, Thomas Kirkpatrick, Stephen Aldritch Irons, John Quiggin, George Alexander Cumming, Horatio Yates, and John Mowat, and all such persons as shall hereafter become Stockholders of the said Company, shall be, and are hereby ordained, constituted and declared to be a body corporate and politic in law, in fact and in name, by the style and title of *The City of Kingston Water Works Company*, and by that name and style, they and their assigns or successors, shall and may have continued succession, and shall and may be capable in law of suing and being sued, pleading and being impleaded, answering and being answered unto, defending and being defended in all Courts and places whatsoever, and that they and their assigns or successors, may have a Common Seal, and may change and alter the same at pleasure, and shall and may have power to purchase or lease lands, tenements, and hereditaments, for them and their assigns and successors, for the use of the said Water Works, and also to sell any

Preamble.

Certain persons incorporated.

Corporate name and powers.

of

of the said lands, tenements and hereditaments, to be purchased for the purchase aforesaid, and any person or persons, bodies politic or corporate, may give, grant, sell, bargain, or convey to the Company, in fee simple or otherwise, any lands, tenements or hereditaments, for the purposes aforesaid, and the same may re-purchase from the said Company; Provided always that the said lands, tenements and hereditaments to be holden by the said Corporation, shall be held for the purposes and business of the said Water Works Company, in constructing their necessary works, and for no other purposes whatsoever, and that they shall not exceed at any time the yearly value of five hundred pounds currency, over and above the value of the works thereon erected.

Value of real property limited.

Capital and value of each share.

II. And be it enacted, That the said Company of Proprietors may raise and contribute among themselves, such sum as shall not exceed the sum of ten thousand pounds currency, in shares of twelve pounds ten shillings currency each, and the money so raised shall be appropriated to the purpose of constructing, completing, and maintaining the said Water Works, and to the purposes of this Act, and to no other object or purpose whatsoever.

General Meeting for election of Directors.

III. And be it enacted, That within one month after the passing of this Act, a General Meeting of the Proprietors, for carrying this Act into effect, shall be held at such place in the City of Kingston as the majority of such proprietors shall appoint, to choose nine persons being Proprietors in the said undertaking, as Directors, of whom any three or more shall be a Committee for managing the affairs of the Company, and in the event of there not being nine Proprietors or Shareholders in the Company, then, and in that case, the number of Directors shall be limited to the number of Proprietors or Shareholders, each being the owner of at least ten shares of the stock of the said Company, held in his own name and right.

Period during which Directors shall hold office, &c.

Annual elections and reports.

IV. And be it enacted, That the Directors so chosen shall serve until the first Monday in the month of May, one thousand eight hundred and fifty, and shall immediately after their election at their first meeting choose out of their number a President and Vice-President who shall hold their offices respectively during the same period for which the said Directors shall have been elected as aforesaid, and shall thereupon commence the business and operations of the said Corporation, and general meetings of the Proprietors or Shareholders shall be held annually for the purpose of electing Directors as aforesaid on the first Monday in the month of May in each year, at which meeting the Directors of the then past year shall exhibit a full and unreserved statement of the affairs of the Corporation, and of the funds, property and debts due to and from the said Company, which said statement shall be certified by the President under his hand and seal; and in the event of there being no meeting of Shareholders or Proprietors in consequence of the said Shareholders or Proprietors neglecting to attend in conformity with the requirements of this Act, then and in that case the Directors of the previous year shall continue and remain in office until an election shall take place at a future meeting of the said Shareholders or Proprietors, and such Directors subsequently elected or remaining in office shall, at their first meeting after such election, or the period named in this Act for holding such annual meeting, choose out of their number a President and Vice-President who shall hold their offices respectively for the then ensuing twelve months, or until such subsequent election at a future meeting of the said Shareholders or Proprietors, as the case may be, and it shall be lawful for the said Directors, from time to time, in case of death, resignation, absence from

Election of President, &c.

from the Province, or removal of the persons so chosen to be President or Vice-President or Director, or either of them, to choose in their or his stead from among them, the said Directors, another person or persons to be President or Vice-President, or from amongst the other Shareholders or Proprietors another person or persons to be Director or Directors respectively, to continue in office until the next annual meeting as aforesaid.

V. And be it enacted, That Stockholders or Proprietors may vote by proxy or in person, and all elections shall be by ballot, and each Stockholder or Proprietor shall have one vote; Provided always that each Stockholder or Proprietor holding more than three shares shall have one vote for every three shares held by such Stockholder or Proprietor.

Shareholders
may vote by
proxy, &c.
Proviso.

VI. And be it enacted, That the Directors shall and may have the power to appoint such officers and other persons as may appear to them necessary for carrying on the business of the said Corporation, with such salaries and allowances to each as shall seem meet and advisable, and also shall and may have the power to make and prescribe and alter such By-laws, Rules, Regulations and Ordinances as shall appear to them proper and needful touching the well ordering of the said Corporation, the management and disposition of its stock, property, estate and effects, and also shall and may have the power to declare yearly or half-yearly dividends out of the profits of the said business as they may deem expedient: Provided always, that such By-laws, Rules, Regulations and Ordinances, shall be in no wise inconsistent with the true intent and meaning of this Act, and the powers hereby granted, nor repugnant to the laws of the Province.

Directors may
appoint offi-
cers, make By-
laws, &c.

Proviso.

VII. And be it enacted, That the stock of the said Company shall be assignable and transferable according to such rules, and subject to such restrictions and regulations as the Board of Directors shall from time to time make and establish, and shall be considered as personal property: Provided also, that such transfer be entered and registered in a book or books, kept for that purpose for the said Company.

Stock to be
assignable
subject to
regulations.

Proviso.

VIII. And be it enacted, That it shall and may be lawful to and for the said Corporation to erect, construct, have and use, or cause to be erected, constructed and used in or near the said City of Kingston, at and upon such site or sites as the said Corporation may from time to time, at any time during the continuance of this Act, procure or have for such purpose, such steam or other engine or engines or machinery, buildings and erections whatsoever, as may be required for the uses or purposes of the said Water Works; and also after three days' notice in writing to the City Clerk of the City of Kingston, to break up, dig and trench so much and so many of the streets, squares, and public places of the said City of Kingston, commencing at the works of the said Corporation, and running through the said City of Kingston, as will be necessary for laying the mains and pipes to conduct the water to and from the works of the said Corporation to the consumers thereof, doing no unnecessary damage in the premises, and taking care, as far as may be, to preserve a free and uninterrupted passage through the said streets, squares and public places, while the work is in progress, and making such openings in such parts of the said streets, squares, and public places, as may be requisite for the construction of such works, and laying such mains and pipes therein with the permission of the City Council of the said City of Kingston; and also placing guards and fences, and taking all such necessary precautions for the prevention of accidents to passengers

Corporation
may break up,
&c. streets,
&c. and lay
down water
pipes, &c.

Conditions to
be observed by
the Company.

passengers and others, which might be occasioned by such openings, as such City Council shall at any time order or require; also finishing the work, and replacing the said streets, squares and public places in as good a condition as before the commencement of the work, without any unnecessary delay; and also to break up, dig and trench such roads, streets, and places in the immediate vicinity of the said City of Kingston as may be necessary for laying the mains and pipes aforesaid, and for constructing the said works, doing no unnecessary damage in the premises, and taking all necessary precautions for the prevention of accidents to passengers or others, during the progress of such works, and in case of the neglect of any of the duties herein provided, as aforesaid, the said Corporation shall be subject to such fine not exceeding Five Pounds currency, for every day such neglect shall continue, to be recovered by information in Her Majesty's Court of Queen's Bench, on behalf of Her Majesty, Her Heirs and Successors, for the public uses of the Province, as the said Court may order or impose, over and above such damages as may be recovered against the said Corporation in any Civil Action.

IX. And be it enacted, That in case the said Corporation shall open or break up any street, square, or public place in the said City, and shall neglect to keep the passage of the said street, square, or public place, as far as may be, free and uninterrupted, or to place guards or fences, or take any unnecessary precaution for the prevention of accidents to passengers or others, or to close and replace the said streets, squares, or public places, without unnecessary delay, as hereinbefore provided, the City Surveyor, under the direction of the City Council of the said City of Kingston, shall cause the duty so neglected to be forthwith performed, and the expense thereof, shall be defrayed by the said Corporation on demand of the City Surveyor, from the Cashier, or Treasurer, or any Director of the said Corporation, or in default of such payment, the amount of the said claim, shall and may be recovered from the said Corporation, at the suit of the said City of Kingston, in an action of debt in any Court of competent jurisdiction.

X. And be it enacted, That the said Corporation shall be held and obliged to make, erect, construct, repair, and keep in good order, at the charges and expense of the City of Kingston, in such parts of the City of Kingston as may be fixed upon by the City Council thereof, such number of good and sufficient fire plugs as may be found necessary by the said City Council for the purposes of supplying fire engines, and of giving such other assistance as may be useful and necessary for extinguishing fires, and preventing the communication thereof; Provided always, that the said Water Works Company shall not be compelled to make, erect, or construct any fire plugs as aforesaid in any part of the City of Kingston, where they have not made or constructed pipes for conveying water.

XI. And be it enacted, That if any person or persons, shall lay, or cause to be laid, any pipe or main, to communicate with any pipe or main belonging to the said Corporation or in any way obtain or use the water without the consent of the Board of Directors, or their officer appointed to grant such consent, he or they shall forfeit or pay to the said Corporation the sum of twenty-five pounds, and also a further sum of one pound for each day such pipe shall so remain, which said sum, together with costs of suit in that behalf incurred, may be recovered by civil action in any Court of Law in this Province, having jurisdiction competent for the same.

XII.

Proceedings in case of neglect on the part of the Company.

The Company to construct fire plugs.

Proviso.

Penalty for procuring water without the consent of the Company.

XII. And be it enacted, That if any person or persons shall wilfully or maliciously break up, pull down, or damage, injure, put out of order, or destroy any main, pipes, engine, water house, pipe, plug, or other work, or apparatus, appurtenances, or dependencies thereof; or any matter or thing already made and provided, or which shall be made and provided for the purposes aforesaid; or any of the materials used and provided for the same, or ordered to be erected, laid down, or belonging to the said Company, or shall in any wise, wilfully do any other injury or damage, for the purpose of obstructing, hindering, or embarrassing the construction, completion, maintaining, or repairing of the said works, or shall cause or procure the same to be done, or shall bathe, or wash, or cleanse any cloth, wool, leather, skins, animals, or any noisome or offensive thing, or cast, throw, or put any filth, dirt, or any noisome or offensive thing, or cause, permit or suffer the water of any sink, sewer, or drain to run, or be conveyed into, or cause any other annoyance to be done to the water within any reservoirs, cisterns, ponds, courses or fountains, from which the water to supply the said City is to be conveyed, or by wrongfully or improperly wasting the water; every such person or persons shall be guilty of a misdemeanor, and on conviction thereof, the Court before whom such persons shall be tried and convicted, shall have power and authority to condemn such person to pay a penalty not exceeding five pounds, currency, or to be confined in the Common Gaol of the District for a space of time, not exceeding three months, as to such Court may seem meet.

Penalty on persons damaging pipes or other works, &c.

XIII. And be it enacted, That the subscriptions for shares in the Capital Stock of the said Company or to the undertaking for carrying out which the said Company is incorporated, shall be good and valid and binding on the Shareholders whether made before or after the passing of this Act; and the several persons who have subscribed or may hereafter subscribe for shares in the said undertaking or Company, shall and they are hereby required to pay the sum or sums of money by them respectively subscribed, or such part or portions thereof as shall from time to time be called for by the Directors of the said Company, under and by virtue of the powers and directions of this Act, to such person or persons, and at such times and places, as shall be directed or required by the Directors; and in case any person or persons shall neglect or refuse to pay the same at the time and in the manner required for that purpose, it shall be lawful for the Directors to cause the same to be sued for and recovered in any Court of Law in this Province having jurisdiction in civil cases to the amount, and in any such action, whether for the subscriptions already made or hereafter to be made, it shall not be necessary to set forth the special matter in the declaration, but it shall be sufficient to allege that the defendant is the holder of one or more shares in the Stock, (stating the number of shares) and is indebted to the Company in the sum to which the calls in arrear may amount; and in any such action it shall be sufficient to maintain the same, that the signature of the defendant to some book or paper by which it shall appear that such defendant subscribed for a share or a certain number of shares of the Stock of the said Company or undertaking be proved by one witness, whether in the employ of the Company or not, and that the number of calls in arrear have been made, and the suit may be brought in the corporate name of the Company.

Subscriptions made before or after the passing of this Act to be binding.

Calls not paid may be recovered by suit.

What must be alleged and proved in such suit.

XIV. And be it enacted, That no instalment to be paid on account of the shares in the Stock of the said Company shall exceed two pounds ten shillings currency on each share, and notice thereof shall be given by advertising in one or more of the newspapers published in the said City of Kingston, at least two weeks before such instalment shall be

Calls of instalments not to exceed a certain amount.

Proviso: for-
feiture for non-
payment.

be called for: Provided always, that no instalment shall be called for except after the lapse of a fortnight from the time when the last instalment was called for, and if any person or persons shall neglect or refuse to pay his or their share of such money to be so paid in as aforesaid at the time or place fixed and appointed by the Directors, such person or persons so neglecting or refusing may be sued as aforesaid, or at the option of the Directors shall thereby incur forfeiture of not more than ten nor less than five per cent on the amount of his or their respective share or shares; and if such person or persons shall refuse or neglect to pay their portion of the instalments demanded for the space of two calendar months after the time fixed for the payment thereof, then and in that case such person or persons shall forfeit his or their respective share or shares upon which former instalments shall have been paid, and such share or shares shall be sold by order of the Directors, by public auction, and the proceeds of the sale, after deducting costs and the forfeiture above mentioned, shall be paid over to such defaulter, and the President or Manager of the Company shall have power to transfer the stock to the purchaser or purchasers thereof: Provided always, that no advantage shall be taken of the forfeiture of any share or shares, unless the same shall be declared to be forfeited at some General or Special Meeting of the Shareholders, assembled at any time after such forfeiture shall have been incurred; and every such forfeiture shall be an indemnification to and for every proprietor so forfeiting, against all action or actions, suits or prosecutions whatever, to be commenced or prosecuted for any breach of contract or other agreement between such proprietor and the other proprietors, with regard to carrying on such Water Works.

Proviso.

Company's
fittings not
liable to sei-
zure in certain
cases.

XV. And be it enacted, That it shall be lawful for the said Company to sell, lease, or hire, interior or service pipes and fittings of any kind, and no service pipes or fittings belonging to the said Company shall be subject to be distrained for rent due to any landlord, or be seized in execution for any debt due by any person or persons to or for whose use or the use of whose house or building the same may be supplied by the Company; any law or practice to the contrary notwithstanding.

Company may
stop water for
non payment
of water rate.

XVI. And be it enacted, That if any person or persons, company or companies, or body corporate, supplied with water by the Company, shall neglect to pay any rate, rent or charge due to them, at any of the times of payment thereof, it shall be lawful for the Company, or any person acting under their authority, to stop the water from entering the premises or service pipes of any such person, company or body, by cutting off the service pipe or pipes, or by such means as the said Company shall think fit, and to recover the said rate, rent or charge, together with the expenses of cutting off the water, in any competent Court, by action of debt.

Notice of
twenty-four
hours to be
given.

XVII. And be it enacted, That in all cases where it shall be lawful for the said Company to cut off or take away the supply of water from any house, building or premises under the provisions of this Act, it shall be lawful for the Company, their agents or workmen, upon giving twenty-four hours previous notice to the occupier or person in charge, to enter into any such house, building or premises, between nine in the forenoon and four in the afternoon, making as little disturbance and inconvenience as possible, and to remove, take and carry away any pipe, cock, or apparatus, the property of and belonging to the said Company, and also, to enter as aforesaid, between the hours aforesaid, for the purpose of repairing and making good any such house, building or premises, or for the purpose of examining any pipe, and examining and repairing any pipe or apparatus belonging to the said Company, or used for supplying their water.

XVII.

XVIII. And be it enacted, That in case the present limits of the City of Kingston be enlarged by an Act to be passed in the present or any future Session of the Parliament of this Province, it shall be lawful for the said Company to extend their operations over any such enlarged limits or the future Liberties of the said City, and the provisions of this Act shall in all respects be applicable to any such enlarged limits or liberties in the same manner and to the same effect as they are made applicable to the present limits of the City of Kingston.

Provision if the limits of Kingston are extended.

XIX. And be it enacted, That nothing in this Act contained, shall extend, or be construed to extend to prevent any person or persons, body politic or corporate from constructing any works for the supply of water to his, or their own premises, or to prevent the Legislature of this Province, at any time hereafter, altering, modifying or repealing the powers, privileges or authorities hereinbefore granted to the said Corporation.

Act not to affect private water works, or to bind the Legislature.

XX. And be it enacted, That the penalties by this Act imposed, appertaining to Her Majesty, Her Heirs and Successors, shall be reserved for the public uses of the Province, and for the support of the Government thereof; and the due application of the same shall be accounted for to Her Majesty, Her Heirs and Successors, through the Lords Commissioners of Her Majesty's Treasury, for the time being, in such manner and form as Her Majesty, Her Heirs and Successors shall be pleased to direct.

Accounting clause.

XXI. And be it enacted, That nothing herein contained shall affect, or be construed to affect, in any manner or way whatsoever, the rights of Her Majesty, Her Heirs and Successors, or of any person or persons, or of any bodies politic, corporate or collegiate, such only excepted as are herein mentioned.

Reservation of Her Majesty's Rights.

XXII. And be it enacted, That the Water Works hereinbefore mentioned, shall be in operation within three years from the passing of this Act, in default whereof, the privileges and advantages granted by this Act to the said Company shall cease, and be of no effect.

Works to be completed within three years.

XXIII. And be it enacted, That whenever the word person or persons is used in this Act, it shall be taken to comprehend a body politic or corporate, or its lawful agent or agents, as well as an individual; and every word importing the singular number shall, when necessary, be deemed to extend to several persons or things, and every word importing the masculine gender shall, when necessary, extend to a female as well as a male.

Interpretation clause.

XXIV. And be it enacted, That this Act be and is hereby declared to be a Public Act, and that the same may be construed as such in Her Majesty's Courts in this Province.

Public Act.

XXV. And be it enacted, That this Act shall be and remain in force for fifty years, and no longer.

Duration of this Act.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CLIX.

An Act to increase the Stock of *The Grand River Navigation Company*.

[30th May, 1849.]

WHEREAS *The Grand River Navigation Company* have expended the full amount of their Capital Stock, and also incurred a large debt in completing the navigation of the said river from Cayuga to Brantford; And whereas all the income from tolls and water rents has been expended in the said improvements, and would hereafter be appropriated to the payment of the said debt, and no dividend can be declared on the paid up Stock until the said debt is paid; And whereas for the interest of the Shareholders, in order to pay off the said debt and enable the Company to make yearly dividends, it is desirable to increase the Capital Stock to the amount of Seventy thousand pounds: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That in addition to the Capital Stock of fifty thousand pounds, authorized by the seventeenth section of the Act of the Legislature of Upper Canada, passed in the second year of the Reign of His late Majesty King William the Fourth, and intituled, *An Act to incorporate a Joint Stock Company to improve the Navigation of the Grand River*, the said Company be and is hereby empowered to create an additional Capital Stock of twenty thousand pounds, to be divided into Shares of six pounds five shillings each.

Preamble.

The Company may raise additional Stock, to the amount of £20,000.

Act of U. C. 2 W. 4, c. 13.

II. And be it enacted, That the Directors of the said Company may cause books to be opened to receive such subscriptions to the Capital Stock, at such time and in such places and manner, as they may deem expedient; and that the sum of five per cent shall be paid on each share subscribed, at the time of subscribing.

Books of subscription to be opened.

III. And be it enacted, The the Directors may require from the Stockholders payment of all sums of money by them subscribed, by instalments not exceeding five pounds per month, and that every shareholder shall be liable for the full amount of Stock subscribed by him, unless the said Directors shall deem it expedient to forfeit the shares of such Stockholders as are in default, as they may do under the provisions of the Act aforesaid, all the enactments whereof not inconsistent with this Act, shall apply to the stock to be raised under this Act and to the holders of such stock.

Directors may compel payment of subscriptions.

2 W. 4 c. 13, to apply to new Stock.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CLX.

An Act to incorporate certain persons under the style and title of *The President, Directors and Company of Port Burwell Harbour.*

[30th May, 1849.]

WHEREAS the construction of a safe and commodious Harbour at Port Burwell, in the County of Middlesex, and District of London, would manifestly tend to the improvement to that part of this Province, as well as be of great advantage to all persons in any way concerned in the navigation of Lake Erie; And whereas J. W. Wrong, Alexander Saxon, Thomas Jenkins, Samuel Arnold, William Francisco, Samuel Garnsey, B. T. Smith, Isaac Titus, Andrew Chute, William Hollowood, John Sibley, James Harris, George Cameron, David C. Rees, Sidney McDermid, Samuel Tedford, John Marr, E. Saxon and David Merrill, have petitioned to be by law incorporated for the purpose of effecting the construction of such Harbour, by means of a Joint Stock Company: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the said J. W. Wrong, Alexander Saxon, Thomas Jenkins, Samuel Arnold, William Francisco, Samuel Garnsey, B. T. Smith, Isaac Titus, Andrew Chute, William Hollowood, John Sibley, James Harris, Geo. Cameron, David C. Rees, Sidney McDermid, Samuel Tedford, John Marr, E. Saxon and David Merrill, together with all such other persons as shall become Stockholders in such joint stock or capital as is hereinafter mentioned, shall be and are hereby ordained, constituted and declared to be a body corporate and politic, in fact, by and under the name and style of *The President, Directors and Company of Port Burwell Harbour*; and by that name, they and their successors, shall and may have continued succession; and by such name shall be capable of contracting and being contracted with, or suing and being sued, pleading and being impleaded, answering and being answered unto, in all Courts or places whatsoever, in all manner of suits, actions, complaints, matters and causes whatsoever; and that they and their successors may and shall have a common seal, and may change and alter the same at their will and pleasure; and also, that they and their successors, by the same name of *The President, Directors and Company of Port Burwell Harbour*, shall be in law capable of purchasing, having and holding, to them and their successors, any estate real, personal or mixed, to and for the use of the said Company,

Preamble.

Certain persons incorporated.

Corporate name and powers.

Company, and of letting, conveying, or otherwise departing therewith, for the benefit and on the account of the said Company, from time to time, as they shall deem necessary and expedient: Provided always, that nothing herein contained shall extend, or be construed to extend, to allow the said Company to carry on the business of banking.

Proviso.

Company may construct a Harbour at Port Burwell.

II. And be it enacted, That the said Company are hereby authorized and empowered, at their own costs and charges, to construct a Harbour at Port Burwell aforesaid, which shall be accessible to, and fit, safe and commodious for the reception of such description and burthen of vessels as commonly navigate the said Lake; and also to erect and build all such needful moles, piers, wharves, buildings and erections whatsoever, as shall be useful and proper for the protection of the said Harbour, and for the accommodation and convenience of vessels entering, lying, loading and unloading, within the same, and to alter and amend, repair and enlarge the same, as may be found expedient and necessary.

Directors may agree with the owners as to compensation for lands or damages.

III. And be it enacted, That the Directors of the said Company, shall be, and they are hereby empowered to contract, compound, compromise and agree with the owners and occupiers of any land through or upon which they may determine to cut and construct the said intended Harbour, with all necessary and convenient roads, streets and approaches thereto, to be constructed and made, either for the absolute purchase of so much of the said land as they shall require for the purposes of the said Company, or for the damages which he, she or they, shall and may be entitled to recover from the said Company in consequence of the said intended Harbour, roads, streets and approaches thereto being cut, made and constructed, in and upon his, her or [their respective lands; and in case of any disagreement between the said Directors and the owner or owners, occupier or occupiers aforesaid, it shall and may be lawful, from time to time, as often as the said Directors shall think fit, for each owner or occupier so disagreeing with the said Directors, either upon the value of the lands and tenements proposed to be purchased, or upon the amount of damages to be paid to them as aforesaid, to nominate and appoint one or more indifferent person or persons, and for the said Directors to nominate an equal number of indifferent persons, who together with one other person to be elected by ballot by the persons so named, shall be arbitrators to award, determine, adjudge and order the respective sums of money which the said Company shall pay to the respective persons entitled to receive the same, the award of a majority of whom shall be final; and the said arbitrators shall, and they are hereby required to attend at some convenient place in the vicinity of the said intended Harbour, to be appointed by the said Directors, after eight days' notice given them for that purpose by the said Directors, then and there to arbitrate, award, adjudge and determine such matters and things as shall be submitted to their consideration by the parties interested; and that each arbitrator shall be sworn before some one of Her Majesty's Justices of the Peace in and for the said District, any one of whom may be required to attend the said meeting for that purpose, well and truly to assess the damages between the parties according to the best of his judgment: Provided always, that any award made under this Act shall be subject to be set aside on application to the Court of Queen's Bench, in the same manner and on the same grounds as in ordinary cases of submission by the parties, in which case reference may be again made to arbitrators as hereinbefore provided.

Disputes to be settled by arbitration.

Arbitrators how appointed.

Time and manner of proceeding by the arbitrators.

Award subject to the control of Queen's Bench.

IV. And be it enacted, That as soon as the said Harbour shall be so far completed as to be capable of receiving and sheltering vessels, the said Company shall have full power and authority to ask for, demand, receive and take, as tolls, to and for their own proper use and benefit and behoof, on all goods, wares and merchandize, shipped or landed on board or out of any vessel or boat from or upon any part of the Lake shore between the East boundary of lot number nine, and the West boundary of lot number sixteen, in the first concession of the Township of Bayham, on Lake Erie, in the said District of London, and upon all vessels and boats entering the said Harbour, not exceeding the rates following, that is to say :

Tolls when to be levied

Extent of the harbour.

Rate of tolls.

- Pot and pearl ashes, per barrel six pence ;
- Pork, whiskey, salt, beef and lard, per barrel, four pence ;
- Flour per barrel, three pence ;
- Merchandize, per barrel bulk, four pence ;
- Lard and butter, per keg, one penny half penny ;
- Merchandize, per ton, five shillings ;
- West India staves, per thousand, two shillings and six pence ;
- Shingles, per thousand, six pence ;
- Shingle bolts, per cord, five shillings ;
- Pipe staves, per thousand, ten shillings ;
- Deals, per hundred pieces, three shillings ;
- Oak timber, per thousand feet, running measure, five shillings ; every cord of fire wood, three pence ;
- Wheat and other grain, per sixty pounds, one penny ;
- Lumber, per thousand feet, board measure, one shilling and three pence ;
- Boats, under five tons, free ;
- Boats and vessels, under twelve tons, one shilling and three pence ;
- Boats and vessels, above twelve tons and not over fifty, two shillings and six pence ;
- Vessels, over fifty tons, five shillings.

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

Harbour, &c., vested in the Company.

VI. And be it enacted, That if any person or persons shall neglect or refuse to pay the tolls or dues to be collected under this Act, it shall and may be lawful for the said Company, or their officer, clerk or servant, duly appointed, to seize and detain the goods,

Vessels and goods liable to seizure for non-payment of tolls.

May be sold
for non-
payment.

goods, vessels or boats on which the same were due and payable, until such tolls are paid; and if the same shall be unpaid for the space of thirty days next after such seizure, the said Company, or their officer, clerk or servant as aforesaid, may sell and dispose of the said goods, vessels or boats, or such part thereof as may be necessary to pay the said tolls, by public auction, giving ten days' notice thereof, and return the overplus, if any, to the owner or owners thereof.

Seven Direc-
tors to be
elected.

Time, notice
and manner of
lection.

VII. And be it enacted, That the property, affairs and concerns of the said Company shall be managed and conducted by seven Directors, one of whom shall be chosen President, and three of whom shall be a *quorum*, who shall hold their office for one year; which said Directors shall be Stockholders to the amount of at least eight shares, as well as inhabitants of this Province, and be elected on the third Monday in June in every year, at Port Burwell, at such time of the day as a majority of Directors for the time being shall appoint; and public notice thereof shall be given in the *Canada Gazette*, or in any newspaper or newspapers that may be published in the said District of London, at least thirty days previous to the time of holding the said election; and the said election shall be held and made by such of the Stockholders of the said Company as shall attend for that purpose in their own proper persons or by proxy; and all elections for such Directors shall be by ballot, and the seven persons who shall have the greatest number of votes at any election shall be Directors; and if it shall happen at any such election that two or more have an equal number of votes, in such manner that a greater number of persons than seven shall by a plurality of votes appear to be chosen Directors, then the said Stockholders hereinbefore authorized to hold such election, shall proceed to elect by ballot until it is ascertained which of the said persons so having an equal number of votes shall be Director or Directors, so as to complete the whole number of seven; and the said Directors so chosen, so soon as may be after the said election, shall proceed in like manner to elect by ballot one of their number to be President; and if any vacancy or vacancies shall at any time happen among the Directors, by death, resignation or removal from the Province, such vacancy or vacancies shall be filled for the remainder of the year in which they may happen by a person or persons to be nominated by a majority of the Directors.

Vacancies in
direction how
filled up.

Ratio of voting
for Stockhold-
ers.

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

Corporation
not dissolved
by non elec-
tion of Direc-
tors.

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

Directors may
make By laws.

X. And be it enacted, That the Directors for the time being, or a major part of them, shall have power to make and subscribe such rules and regulations as to them shall appear needful and proper, touching the management and disposition of the stock,
property,

property, estate and effects of the said Corporation, and touching the duties of the officers, clerks and servants, and all such other matters as appertain to the business of the said Company; and shall also have power to appoint as many officers, clerks and servants, for carrying on the said business, with such salaries and allowances as to them shall seem fit.

And appoint the officers of the Company.

XI. And be it enacted, That on the third Monday in June after the passing of this Act, a meeting of the Stockholders shall be held at Port Burwell, who, in the same manner as hereinbefore provided, shall proceed to elect seven persons to be Directors, who shall continue in such office until the first Monday in June next after their election, and who during such continuance shall discharge the duties of Directors, in the same manner as if they had been elected at the annual election: Provided always, that if shares to the amount of three thousand pounds of the capital stock of the said Company shall not be taken, then the said meeting shall not be held until that amount of stock shall have been taken up, and at least thirty days notice thereof given in the *Gazette*, or any newspaper or newspapers that may be published in the said District.

First meeting of the Stockholders.

No meeting to be held until £3,000 stock be taken up.

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

Capital stock not to exceed £20,000.

Shares £6 5s. each: and assignable.

XIII. And be it enacted, That it shall be lawful for the said Corporation from time to time to borrow either in this Province or elsewhere all such sum or sums of money as they may find expedient, and to make the bonds, debentures or other securities they shall grant for the sums so borrowed payable either in currency or in sterling with interest, and at such place or places within or without this Province as they may deem advisable, and such bonds, debentures or other securities may be made payable to bearer or transferable by simple endorsement or otherwise, and may be in such form as the Directors for the time being may see fit; and the said Directors may hypothecate, mortgage or pledge, the lands, revenues and other property of the said Corporation for the due payment of the said sums and the interest thereon: Provided always, that no such bond, debenture or other security shall be made or granted for a less sum than one hundred pounds currency.

The Company may borrow money and give security for the payment thereof, subject to certain conditions.

XIV. And be it enacted, That as soon as Directors have been appointed, as aforesaid, it shall and may be lawful for them to call upon the Stockholders of the said Company, by giving thirty days notice thereof in the *Canada Gazette*, or in any newspaper or newspapers that may be published in the said District, for an instalment of ten per cent upon each share which they, or any of them respectively may subscribe; and that the residue of the share or shares of the Stockholders shall be payable by instalments, in such time and in such proportion as a majority of the Stockholders, at a meeting to be expressly convened for that purpose, shall agree upon, so as no such instalment shall exceed ten per cent, nor become payable in less than thirty days after public notice in the said *Canada Gazette*, or in any newspaper or newspapers that may be published in the said District;

Instalments when and how to be called in.

Limit of each instalment: time between each.

Proviso.

District ; Provided always, that the said Directors shall not commence the construction of the said Harbour until the first instalment shall be paid in.

Shares to be forfeited by non payment of instalments.

Forfeited Shares to be sold.

Proviso.

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

Annual dividends to be made, and Annual statement to be prepared.

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

The Crown may assume the Harbour after fifty years on certain conditions.

Harbour thereafter to be vested in Her Majesty.

Proviso as to such assumption of possession.

XVII. And be it enacted, That at any time after fifty years after the making and completing the said Harbour, Her Majesty, Her Heirs and Successors may assume the possession and property of the same, and of all and every the works and dependencies thereto belonging, upon paying to the said Company for the use of the Stockholders thereof, the full amount of their respective shares, or of the sums furnished and advanced by each subscriber towards the making and completing the said Harbour, together with such further sum as will amount to twenty-five per cent upon the money so advanced and paid, as a full indemnification to such Company ; and the said Harbour shall from the time of such assumption in manner aforesaid appertain and belong to Her Majesty, Her Heirs and Successors, who shall from thenceforth be substituted in the place and stead of the said Company, upon the conditions and subject to the provisions of any Act of the Legislature of this Province that may be passed of or respecting the same : Provided always, that it shall not be lawful for Her Majesty, Her Heirs or Successors, at any time after the expiration of the said fifty years, to assume the possession and property of the said Harbour, with its appurtenances as aforesaid, unless it shall appear from the accounts of the said Company, to be for that intent laid before the Legislature, that the Stockholders of the said Company have received every year, upon an average, the sum of twelve pounds, ten shillings, for every hundred pounds they shall be possessed of in the said concern.

XVIII. And be it enacted, That from and after the period when the possession of the right, interest and property in and to the said Harbour shall have been assumed by Her Majesty, Her Heirs or Successors as hereinbefore authorized, all tolls and profits arising therefrom shall be paid into the hands of Her Majesty's Receiver General to and for the public uses of this Province, at the disposition of the Legislature thereof; and shall be accounted for to Her Majesty, Her Heirs and Successors through the Lords Commissioners of Her Majesty's Treasury in such manner and form as Her Majesty, Her Heirs and Successors shall be graciously pleased to direct: Provided always, that the said Harbour shall be commenced within two years and completed within seven years after the passing of this Act, otherwise this Act and every matter and thing herein contained shall cease and be utterly null and void.

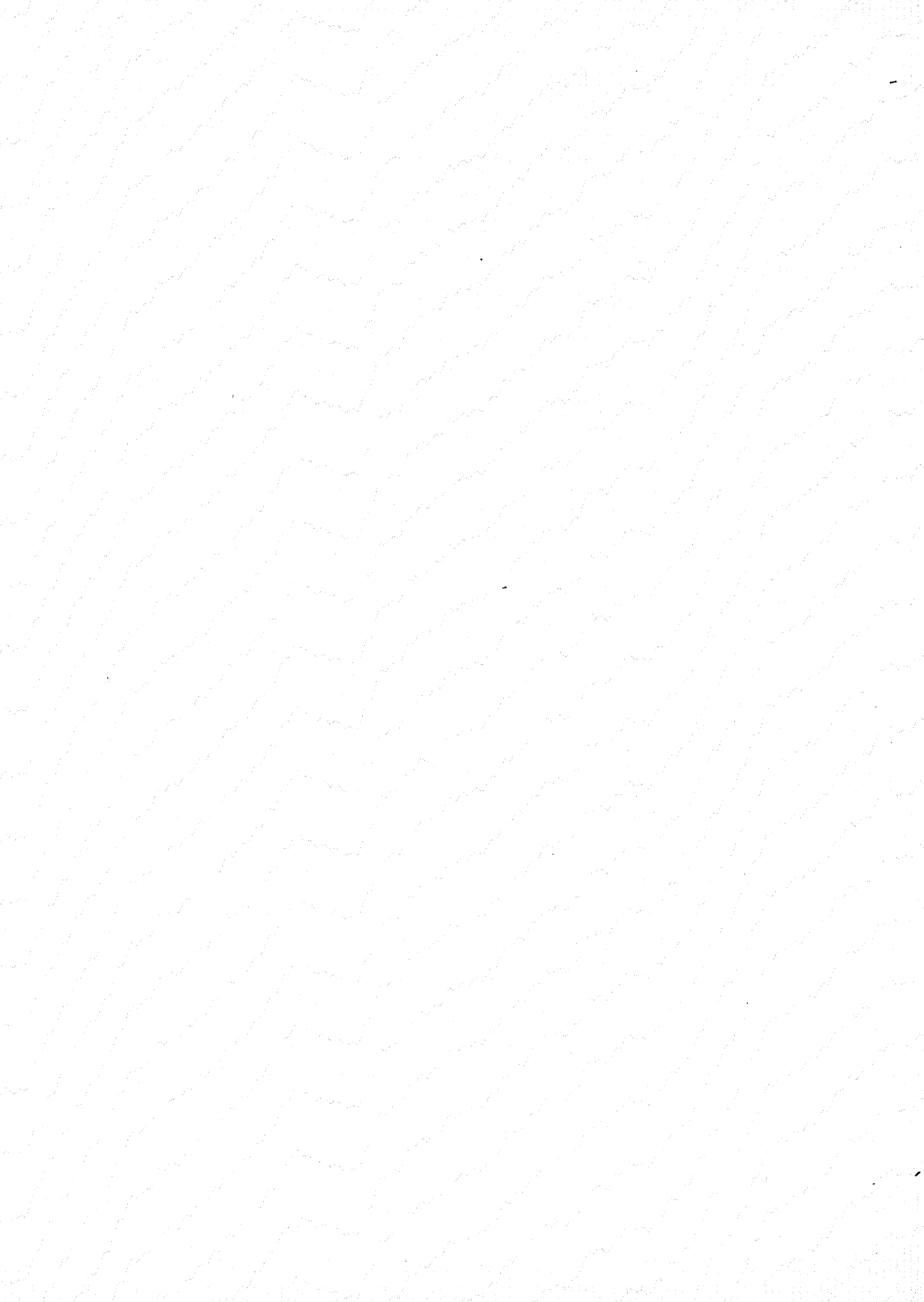
Upon such assumption, tolls to be paid to the Receiver General.

Time for commencing and completing the Harbour.

XIX. And be it enacted, That this Act shall be deemed and taken to be a Public Act, and as such shall be judicially noticed by all Judges, Justices of the Peace, and other persons, without being specially pleaded.

This a public Act.

MONTREAL : Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.





ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CLXI.

An Act to amend the Act incorporating *The Niagara Falls Suspension Bridge Company*.

[30th May, 1849.]

WHEREAS *The Niagara Falls Suspension Bridge Company*, have, by their Board of Directors, represented that the amount of the capital stock of the said Company is too large, and have prayed that the same may be reduced; and that the said Company have already expended upwards of seven thousand pounds in the construction of a foot bridge, and have undertaken to construct a carriage bridge for the passage of loaded wagons and teams of every description by the first day of August next, and further to finish and complete the same with substantial stone towers as a rail-way bridge so soon as the rail-ways in the United States and Canada shall be in operation at that point; And whereas, if a second bridge were built over the Niagara River above the present structure by others than the said Company, it would in a great measure deprive the said Company of the revenue arising from foot passengers, and greatly retard the completion of the said Rail-road bridge: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the second section of the said Act be and the same is hereby repealed.

Preamble.

Sect. 2 of 9 V. c. 115, repealed.

II. And be it enacted, in lieu of the said second section, That twenty-five thousand pounds shall constitute the capital stock of the said Company, and that the same shall be divided into shares of twenty-five pounds each, and that the Board of Directors be and are hereby authorized to apportion the stock which may at present be subscribed for accordingly.

Stock of the Company reduced to £25,000.

III. And be it enacted, That the said *Niagara Falls Suspension Bridge Company* shall have the exclusive privilege and right of erecting any other bridge above the site of the present bridge, to the head of the rapids above the falls, for the term of fifteen years, from the passing of this Act; Provided always, nevertheless, that the said privilege shall be forfeited unless the said Company shall by the first day of January next, finish and complete the said first mentioned suspension bridge for the passage of all descriptions of loaded waggons, carriages and teams; and shall, on the completion of a continuous line of rail-way in the United States and Canada to pass at that point, erect

Exclusive privilege granted.

Proviso: Company to complete their bridge in a certain manner and by a certain time.

erect permanent stone towers, and so strengthen the cables of the said bridge that it shall be safe for the passage of rail-way trains, and be capable of supporting an ultimate strain of six thousand six hundred tons, and its safety and capability of supporting such weight as aforesaid shall be certified by such Engineer as the Governor shall appoint to examine the same.

No other Com-
pany to build
a bridge with-
in the said
limits.

IV. And be it enacted, That no person or party other than the said Company shall build or erect any bridge or structure of any description across the said river within the limits hereinbefore described, so long as the said exclusive privilege shall remain in force.

Company to
build the new
bridge within
a certain time.

V. Provided always, and be it enacted, That unless the said Company, within five years from the passing of this Act, build and erect a good and sufficient bridge or structure for the passage of foot passengers across the said River, at least one mile above their present bridge, and which foot bridge they are hereby authorized to construct, the exclusive rights and privileges granted to the said Company by this Act shall cease and be forfeited: Provided also, that the privilege conferred by this Act shall not become forfeited, if after due exertion on their part the Legislature of the State of New York, should refuse to grant authority to the said Company, for the construction of the said foot bridge.

Proviso.

Capital may be
increased for
constructing
the new
bridge.

VI. Provided also and be it enacted, That for the purpose of constructing such foot bridge, the said Company shall have power to increase their capital stock to thirty-seven thousand five hundred pounds, instead of twenty-five thousand pounds as hereinbefore provided, and that the additional stock shall be divided into the like shares with the other stock of the said Company.

Limitation as
to the amount
of tolls to be
levied.

Reservation of
power to en-
force this
Provision.

VII. Provided also and be it enacted, That the amount of the Tolls to be levied by the said Company, shall in no case, during the continuance of the exclusive privilege hereby granted, exceed an amount sufficient to afford a return of twenty-five per cent per annum, on the capital actually expended by the said Company; and no enactment which the Legislature may hereafter make for the purpose of enforcing this provision, shall be deemed an infringement of the rights of the Company.

Recital.

Justices to fix
the sum to be
paid to the
Government
as compensa-
tion for the
Ferry.

VIII. And whereas the construction of the said additional foot bridge hereby authorized to be constructed, would still further decrease the amount of rent accruing to the Province, from the ferry across the Niagara river at the Falls thereof: Be it therefore enacted, That it shall and may be lawful for the Justices of the Peace for the District of Niagara, or a majority of them at the Court of General Quarter Sessions of the Peace, to be held in January next, after the said foot bridge shall have been constructed and toll collected for passing thereon, to fix and determine the sum which the said Company shall pay yearly to the Crown as an additional compensation for such decrease of rent; and a report of such determination shall be transmitted to the Inspector General by and under the hand and seal of the Chairman of the said Sessions, and also to the Secretary of the said Company; and the sum so fixed and determined shall likewise thereafter become due yearly to Her Majesty, on the first day of January, in each year, and shall be paid accordingly by the said Company to the Receiver General, for the public uses of this Province.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CLXII.

An Act to incorporate *The Sault Sainte Marie Mining Company.*

[30th May, 1849.]

WHEREAS it is of great importance to this Province that its Mines and Mineral wealth should be properly worked and brought into use, and the several persons hereinafter named have by their Petition represented that they are occupiers of a tract of land on the River St. Mary, Lake Huron, under the Crown, and that they have at great cost and expense discovered valuable Copper and other Ores therein, and have prayed to be incorporated under the style and title of *The Sault Sainte Marie Mining Company*; And whereas the said persons have with others associated themselves for some time past under the said style and title, and have carried on Mining operations at the place aforesaid, and have expended large sums of money in such operations: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That James Cuthbertson, Frederick Clements Clark, and John F. Elliot, Esquires, and their successors, and such and so many other persons or parties as have become or shall become Shareholders in the Capital Stock hereinafter mentioned, shall be and they are hereby constituted a Body Politic and Corporate by the name of *The Sault Sainte Marie Mining Company*, and by that name shall and may sue and be sued, implead and be impleaded, answer and be answered unto, in all Courts of Law or Equity whatsoever, and shall have uninterrupted succession, with a Common Seal which may by them be changed or varied at their pleasure.

Preamble.

Certain persons incorporated.

Corporate name and powers.

II. And be it enacted, That the Capital Stock of the said Corporation shall be thirty thousand pounds currency, divided into fifteen thousand shares of two pounds currency each, subject to be increased as hereinafter provided.

Capital Stock.

III. And be it enacted, That no Shareholder of the said Corporation shall be in any manner whatsoever liable for or charged with the payment of any debt or demand due by the said Corporation beyond the amount of his, her or their subscribed share or shares in the Capital Stock of the said Corporation.

Shareholders not individually liable.

Calls on Stock-
holders.

Proviso.

IV. And be it enacted, That the calls to be hereafter made on the holders of the said Stock shall be paid by Instalments, when and in such manner as shall be prescribed by the Directors hereinafter named: Provided always, that nothing herein contained shall exonerate, diminish or relieve any party from existing liability to the said Company, whether the said liability relates to contributions due or to fall due upon Stock already issued, or otherwise; but on the contrary, all such liabilities and contributions shall and may be enforced in the same way, and the Corporation shall have the same remedy to enforce the payment of calls already made and all other calls and sums now due and called for, as is hereinafter provided with respect to future calls and liabilities.

Property and
liabilities of
Association
transferred to
Corporation.

V. And be it enacted, That all and every the estate and property, real or personal, belonging to the said Association at the time of the passing of this Act, and all debts or claims then due to, or possessed by the said Association, shall be transferred to and vested in the Corporation hereby established, which shall in like manner be liable to and for all debts due by, or claims upon the said Association, and the Trustees of the Association at the time of the passing of this Act, shall be Directors of the said Corporation, as if elected under this Act, until their successors shall be elected as hereinafter provided.

Corporation
may hold
lands, &c.

VI. And be it enacted, That it shall be lawful for the said Corporation to have and hold such lands and immoveable or real property as may be necessary for carrying on the business of the Corporation, provided the sum invested in real property purchased from private individuals or from the Crown, do not at any one time exceed thirty thousand pounds currency, and it shall be lawful for the said Corporation to sell, lease or otherwise dispose of the said property and estate as they may see fit.

May carry on
exploration for
minerals.

VII. And be it enacted, That it shall be lawful for the said Corporation to engage in and follow the occupation and business of carrying on exploration for, and of finding and getting Copper and other Ores, Metals and Minerals, and of manufacturing, and of disposing of the same for the benefit of the said Corporation, and to do all things necessary for the purposes aforesaid, not inconsistent with the rights of any other parties or with the conditions of any grant or other title under which the said Corporation may hold the lands in which such things are to be done.

May increase
Capital Stock.

VIII. And be it enacted, That if the said sum of thirty thousand pounds be found insufficient for the purposes of this Act, then and in such case it shall be lawful for the Members of the said Corporation by a vote of the majority of Shareholders present, representing not less than five thousand shares, at any General Meeting to be expressly called for that purpose, to increase the Capital Stock of the said Corporation, either by the admission of new Members as subscribers to the said undertaking, or otherwise, to a sum not exceeding in all the sum of sixty thousand pounds currency, including the said sum of thirty thousand pounds currency, hereinbefore authorized to be raised, in such manner and upon such terms and conditions, and under such regulations as shall be approved of and agreed upon; and the Capital so to be raised by the creation of new shares shall be in all respects part of the Capital Stock of the said Corporation, and every Shareholder of such new Stock shall be a Member of the said Corporation, and be entitled to all and every the same powers, privileges and rights, as the persons who are now Shareholders, in proportion to the interest or number of shares which he may acquire, and to the amount of calls paid thereon, and shall also be liable and subject to the

the same obligations, and stand interested in all the profits and losses of the said undertaking, in proportion to the sum that he shall subscribe and pay thereto, as fully and effectually to all intents and purposes whatsoever as if such other or further sum had been originally raised as a part of the said first sum of thirty thousand pounds; any thing herein contained to the contrary notwithstanding.

IX. And be it enacted, That it shall be lawful for the said Corporation from time to time to borrow, either in this Province or elsewhere, all such sum or sums of money, not exceeding in all at any one time thirty thousand pounds currency, as they may find expedient; and to make the Bonds, Debentures or other Securities they shall grant for the sums to be borrowed, payable either in Currency or in Sterling, with interest and at such place or places within or without this Province as they may deem advisable, and such Bonds, Debentures or other Securities may be made payable to bearer, or transferable by simple endorsement or otherwise, and may be in such form as the Directors for the time being may see fit; and the said Directors may hypothecate, mortgage or pledge the lands, revenues and other property of the said Corporation for the due payment of the said sums and the interest thereon: Provided always, that such Corporation shall not be allowed to borrow any part of such sum of thirty thousand pounds aforesaid, until at least one half of the said Capital Stock of the said Corporation of thirty thousand pounds first herein authorized, be paid up and available for the uses of the Corporation: And provided also, that no such Bond, Debenture or other Security shall be made or granted for any less sum than one hundred pounds currency.

May borrow money.

Proviso.

Proviso.

X. And be it enacted, That the property of the said Corporation shall be vested in the Directors for the time being, and the Stock shall be deemed personal moveable estate, notwithstanding the conversion of any portion of the funds constituting the same into lands; and at all meetings of the Shareholders held in pursuance of this Act, whether the same be general or special, every Shareholder shall be entitled to as many votes as he shall have shares in the said Stock, and such vote or votes may be given in person or by proxy; and all questions proposed or submitted for the consideration of the said meetings shall be finally determined by the majority of the votes, except in the case or cases otherwise provided for; And provided also, that no person shall be entitled to vote as proxy at any meetings unless he shall be a Shareholder in the said Corporation, and produce written authority as such proxy, in the form prescribed by the Schedule A.

Property, &c. vested in Directors.

Proviso.

XI. And be it enacted, That the shares in the Stock of the said Corporation shall be assignable by delivery of the Certificates to be issued to the holders of such shares respectively, and by assignment in the form of the Schedule B., or in any other convenient form to be prescribed by any By-law of the said Corporation, and that by such assignment the party accepting such transfer shall thenceforth become in all respects a Member of the said Corporation in respect of such share or shares in the place of the party so transferring the same, but no such transfer shall be valid or effectual until all calls or instalments due on the shares purporting to be transferred, and all debts or moneys due to the said Corporation thereon shall have been fully paid up and discharged, and a Certificate of such transfer extracted from the proper Book of Entry, and purporting to be signed by the Clerk or other Officer of the said Company duly authorized thereto, shall be sufficient *prima facie* evidence of every such transfer, in all Courts in this Province.

Shares, how assignable.

XII.

Offices may be opened in London, Liverpool, &c.

Proviso.

Proviso.

Election of Directors.

Proviso.

Powers of Directors.

As to suits for instalments on Stock.

XII. And be it enacted, That the Directors of the said Corporation shall have power and authority to establish and have a place of business or office in the Cities of London and Liverpool, in England, and Glasgow, in Scotland, and New York, Detroit and Cleveland, in the United States of America, and to open Books of Subscription in all or any of the said Cities for the Stock of the said Corporation, and the said Directors shall also have power to name one or more Agent or Agents or Commissioners in all or any of the aforesaid Cities, and to allow such Agent or Agents or Commissioner a reasonable remuneration for his or their services and all other necessary expenses of the said office and offices; and it shall also be competent for the said Directors to make all such Rules and Regulations, and to prescribe all such forms as to them may seem meet, for the better and more satisfactorily managing and conducting the affairs and business of the said Corporation in all or any of the Cities aforesaid: Provided always, that the said Directors may make By-laws, prescribing the mode in which any shares of the Stock in all or any or either of the said Cities may be made shares in Canada, or whereby any shares of the Stock in Canada, may be made shares in England, Scotland or in the United States aforesaid: Provided always, that unless at a meeting of a majority of the Directors, no By-law, Rule, Regulation or Regulations for raising money or disposing of the Real Estate of the said Corporation, shall be finally passed unless confirmed at the next meeting of the Directors to take place upon due notice given.

XIII. And be it enacted, That for managing the affairs of the said Corporation, there shall be from time to time elected out of the members of the said Corporation, six persons being each a Proprietor of not less than one hundred shares of the said Capital Stock, to be Directors of the said Corporation, for ordering, managing and directing the affairs of the said Corporation; and any three Directors shall form a *quorum* of the Board, and any majority of such *quorum* may exercise all the powers of the Directors: Provided also, that no Director shall have more than one vote at any meeting of Directors; and whenever any vacancy shall happen among the Directors by death, resignation or removal out of the Province, such vacancy shall be filled up until the next General Meeting of the Shareholders in such manner as may be prescribed by any By-law of the Corporation; and the Directors shall have full power to dispose of such part of the Stock of the said Corporation as may remain to be disposed of, or as may from time to time be added to or fall into the general mass either by forfeiture or otherwise, on such terms and conditions, and to such parties as they may think most likely to promote the interests of the said Corporation; and they shall also have full power to make such calls for money from the several Shareholders for the time being as is hereinbefore provided for, and to sue for, recover and get in all such calls, and to cause and declare the said shares to be forfeited to the said Corporation in case of non-payment, on such terms and in such way as they shall see fit to prescribe by any By-law; and in any action to be brought to recover any money due on any call, it shall not be necessary to set forth the special matter in the declaration, but it shall be sufficient to allege that the Defendant is a holder of one share or more in the said Stock (stating the number of shares) and is indebted to the Corporation in the sum to which the calls in arrear shall amount (stating the number and amount of such calls,) whereby an action hath accrued to the Corporation by virtue of this Act, and it shall be sufficient to maintain such action, to prove by any one witness, that the Defendant at the time of making such call was a Shareholder in the number of shares alleged, and that the calls sued for were made and notice thereof given in conformity with the By-laws of the said Corporation,

Corporation, and it shall not be necessary to prove the appointment of the Directors nor any other matter whatsoever ; that the said Directors shall and may use and affix or caused to be used and affixed the Common Seal of the said Corporation to any documents which in their judgment may require the same ; and any act or deed bearing such seal and signed by the President (or by any two Directors) and countersigned by the Secretary, shall be held to be the act or deed of the Corporation ; that they may appoint such and so many agents, officers and servants of the said Corporation under them, as to the said Directors may seem meet, and may fix the salaries and remuneration of such officers, agents and servants ; may make any payments and enter into any contracts for the execution of the purposes of the said Corporation, and for all other matters necessary for the transaction of its affairs ; may generally deal with, treat, purchase, lease, sell, mortgage, let, release and dispose of, and exercise all acts of ownership over the lands, tenements, property and effects of the said Corporation ; may institute and defend in the name of the said Corporation all suits at law ; may from time to time displace the officers, agents and servants of the said Corporation, (except as hereafter provided) ; and that they shall and may have power to do all things whatsoever which may be necessary or requisite to carry out the objects of the Corporation, and to vest the present property and funds of the said Association in the Corporation hereby erected ; that they shall declare dividends of the profits of the said Corporation when and as often as the state of the funds thereof may permit ; may appoint when Special Meetings of the Shareholders shall be held and determine on the mode of giving notice thereof, and of the manner in which the Shareholders may call or require such Special Meetings to be called ; and they shall have power to make By-laws for the government and control of the officers and servants of the said Corporation respectively, and shall also have power to make and frame all other By-laws, Rules and Regulations for the management of the business of the said Corporation in all its particulars and details whether hereinbefore specially enumerated or not, and the same also at any time to alter, change, modify and repeal ; which said By-laws, Rules and Regulations shall be submitted for approval, rejection or alteration by the Stockholders, at the next General Meeting or at a Special Meeting to be called by the said Directors, and when so ratified and confirmed, shall be put into writing and duly recorded in the Minutes of the said Corporation, and be binding upon and observed and taken notice of by all Members of the said Corporation ; and any copy of the said By-laws or any of them, purporting to be under the hand of the Clerk, Secretary or other Officer of the said Company, and having the Seal of the Corporation affixed to it, shall be received as *prima facie* evidence of such By-laws in all Courts in this Province : Provided always, that the Stockholders may at any General or Special Meeting appoint such salary or compensation to the President and Directors respectively, as to them shall seem reasonable and proper : Provided also, that at the first meeting of the Directors to be holden after the passing of this Act, the said Directors shall choose and elect from among themselves, some one to be President of the said Corporation.

Further powers of Directors.

Power to make By-laws.

Proviso.

Proviso.

XIV. And be it enacted, That the first General Meeting of the Shareholders of the said Corporation shall be held at the office of the said Corporation in the City of Montreal, at which place the said Corporation shall have its principal place of business, on the first Wednesday of October, one thousand eight hundred and forty-nine, and at such time and place, and on like day in every year thereafter, the said Shareholders shall elect two fit and qualified persons to be Directors of the said Company,

General Meetings.

Present Trustees to be Directors until first election.

Company, in the place and stead of the two who shall retire as prescribed in the next following section ; and until such first election, and until they shall respectively retire as aforesaid, the Trustees of the Association, to wit, James Cuthbertson, Frederick Clements Clark and John F. Elliot, Esquires, and the survivors or survivor of them shall be and are hereby declared to be and constituted Directors of the said Corporation, and the said James Cuthbertson shall until such day be the President of the said Corporation ; and they shall have and exercise all and every the powers, and shall be subject to all and every the clauses, conditions, liabilities and restrictions imposed on the Directors to be chosen under this Act : Provided always, that in all actions or suits or other legal proceedings to be brought against the said Corporation, it shall be lawful and sufficient for the plaintiff or complainant, or any other party, to cause Process to be served at the said office of the said Corporation in Montreal, or personally, upon the President or any one of the Directors, or on the Secretary of the said Corporation, at any other place.

Proviso.

Order of retiring of Directors.

XV. And be it enacted, That at the first General Meeting of the Shareholders, and at the Annual General Meeting in each year thereafter, two of the said Directors shall retire in rotation, (the order of the retirement of the said three hereinbefore named, to be decided by lot,) on or before the said first Wednesday of October, one thousand eight hundred and forty-nine : Provided always, that all Directors retiring at any time shall be eligible for re-election, and the Directors, immediately after the election at each Annual Meeting, shall choose one of their own number to be President.

Proviso.

Default to elect not to operate dissolution of Corporation.

XVI. And be it enacted, That the failure to hold the said first General Meeting or any other Meeting, or to elect such Directors or President, shall not dissolve the said Corporation, but such failure or omission shall and may be supplied by and at any Special Meeting to be called as the Directors in conformity with the By-laws of the said Corporation, may see fit to appoint, and until such election of new Directors those who may be in office for the time being shall be and continue in office and exercise all the rights and powers thereof, until such new election be made as hereinbefore provided.

Interpretation clause.

XVII. And be it enacted, That the word "Lands" in this Act shall include all lands, tenements and hereditaments and real or immoveable property whatsoever ; and all words importing the singular number or the masculine gender only, shall extend to more than one person, party or thing, and to females as well as males, ; and the word "Shareholder" shall include the heirs, executors, administrators, curators, legatees or assigns of such Shareholder, or any other party having the legal possession of any share, whether in his own name or that of any other, unless the context shall be inconsistent with such construction ; and whenever power is by this Act given to do any thing, power shall be intended also to do all things which may be necessary to the doing of such thing ; and generally all words and clauses herein shall receive such liberal and fair construction as will best ensure the carrying into effect of this Act, according to its true intent and spirit.

Commencement of operations.

XVIII. And be it enacted, That it shall not be lawful for the said Corporation to commence or proceed with their operations, under this Act, unless they shall have first paid up the sum of ten *per centum* on the amount of their Capital Stock.

XIX. And be it enacted, That nothing in this Act contained shall in any manner derogate from or effect the rights of Her Majesty, Her Heirs or Successors, or of any person or persons, body politic or corporate, excepting so far as the same may be specially derogated from or affected by the provisions of this Act. Rights of the Crown, &c. saved.

XX. And be it enacted, That this Act shall be deemed a Public Act, and as such judicially noticed by all Judges, Justices and others whom it shall concern, without being specially pleaded. Public Act.

SCHEDULE A.

FORM OF PROXY.

I, A. B., of _____ hereby appoint C. D., of _____ to be my proxy and to vote and act for me as such, at all Meetings of the Shareholders of *The Sault Sainte Marie Mining Company*, and in my name to do all things with regard to the business of the said Company, which I may, by law, do by Proxy.

Witness, my hand, this _____ day of _____ 18 _____
A. B.

SCHEDULE B.

FORM OF TRANSFER.

I, A. B., in consideration of the sum of _____ paid to me, by C. D., of _____ do hereby bargain, sell and transfer to the said C. D. _____ share or shares of the Stock of *The Sault Sainte Marie Mining Company*, to hold to him the said C. D., his heirs, executors, curators, administrators and assigns, subject to the same Rules and Orders, and on the same conditions that I held the same immediately before the execution hereof.

And I, the said C. D., do hereby agree and accept of the said share or shares, subject to the same rules, orders and conditions.

Witness our hands and seals, this _____ day of _____ in the year _____



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CLXIII.

An Act to incorporate certain persons under the name and style of *The Neepigon Mining Company*.

[30th May, 1849.]

WHEREAS the several persons hereinafter named have, by their Petition, represented that they have associated themselves together, with divers others, for the purpose of exploring for and working Mines of Copper and other Ores, and of smelting the same on the shores of Lake Huron and elsewhere, by Articles of Agreement entered into at the City of Toronto, the eighth of November, one thousand eight hundred and forty-seven, and have raised by subscription the capital necessary effectually to begin their operations, but that they experience great difficulties in carrying out the objects for which they are associated without an Act incorporating them with the powers hereinafter mentioned, and have prayed that such Act may be passed: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That George K. Smith, John W. Telford, Benjamin F. Hedges, Wm. L. Newbold, Jacob Stockman, John L. Newbold, George Wood, H. B. Pennock, John W. Neal, Wm. C. Chace, Joseph H. Hedges, P. Maguire, Jos. H. Duckett, John S. Wood, and John Frs. Smith, and their successors and such and so many other persons or parties as have become, or shall become shareholders in the Capital Stock hereinafter mentioned, shall be and they are hereby constituted a Body Politic and Corporate, in fact and in name by the name of *The Neepigon Mining Company*, and by that name shall and may sue and be sued, implead and be impleaded, answer and be answered unto, in all Courts of Law or Equity whatsoever, and shall have uninterrupted succession with a Common Seal, which may by them be changed or varied at their pleasure.

Preamble.

Certain persons incorporated.

Corporate name and powers.

II. And be it enacted, That no Shareholder in the said Corporation shall be in any manner whatsoever liable for or charged with the payment of any debt or demand due by the said Corporation beyond the amount of his, her or their subscribed share or shares in the Capital Stock of the said Corporation.

Liability of Stockholders limited.

III. And be it enacted, That the Capital Stock of the said Company shall be and the same is hereby declared to be fifteen thousand pounds, divided into twelve thousand shares:

Capital Stock.

Proviso. shares: Provided always, that the said Capital may be increased to twenty-five thousand pounds as hereinafter provided.

Calls on holders of Stock.

IV. And whereas the amount already paid upon the Stock is equal to one shilling and seven pence on each share of one pound five shillings: Be it enacted, that the calls to be hereafter made on the holders of the said Stock shall not exceed in the whole one pound three shillings and five pence currency per share, and the same shall be paid by instalments when and in such manner as shall be prescribed by the Directors hereinafter named: Provided also, that nothing herein contained shall exonerate, diminish or relieve any party from existing liability to the said Company, whether the said liability relates to contributions due or to fall due upon the Stock already issued or otherwise, but on the contrary all such liability and contributions shall and may be enforced in the same way, and the said Corporation shall have the same remedy to enforce the payment of calls already made, and all other calls and sums now due or called for, as is hereinafter prescribed with respect to future calls and liabilities.

Proviso.

Property and liabilities of the Association transferred to the Corporation.

V. And be it enacted, That all and every the estate and property, real or personal, belonging to the Association formed under the Articles of Association aforesaid, at the time of the passing of this Act, or which may subsequently be acquired by them, and all debts or claims due to or possessed by the said Association shall be and hereby are transferred to and vested in the Corporation hereby established, which shall in like manner be liable to and for all debts due by or claims upon the said Association, and the Trustees of the said Association, at the time of the passing of this Act, shall be Directors of the said Corporation, as if elected under this Act, until their successors shall be elected as hereinafter provided.

Corporation may hold real property to value of £25,000.

VI. And be it enacted, That it shall be lawful for the said Corporation to have and hold such lands and immoveable or real property as may be necessary for carrying on the business of the said Corporation, provided the sum invested in real property purchased from private individuals do not at any one time exceed twenty-five thousand pounds; and it shall be lawful for the said Corporation to sell, lease or otherwise dispose of the said property and estate as they may see fit.

May explore for the purpose of finding copper and other ores.

VII. And be it enacted, That it shall be lawful for the said Corporation to engage in and follow the occupation and business of carrying on exploration for and of finding and getting copper and other ores, metals and minerals, and of manufacturing and disposing of the same for the benefit of the said Corporation, and to do all things necessary for the purposes aforesaid, not inconsistent with the rights of any other parties, or with the conditions of any grant or other title under which the said Corporation may hold the lands in which such things are to be done.

Corporation may increase Capital Stock to £25,000 currency.

VIII. And be it enacted, That if the said sum of fifteen thousand pounds be found insufficient for the purposes of this Act, then and in such case it shall be lawful for the Members of the said Corporation, by a vote of not less than two thirds in number of the shareholders, representing not less than eight thousand shares, at any General Meeting, to be expressly called for that purpose, to increase the Capital Stock of the said Corporation, either by the admission of new Members as subscribers to the said undertaking, or otherwise, to a sum not exceeding in all the sum of twenty-five thousand pounds currency, including the said sum of fifteen thousand pounds currency, hereinafter authorized to be raised, in such manner and upon such terms and conditions, and under

under such regulations as shall be approved and agreed on; and the capital so to be raised by the creation of new shares or otherwise shall be in all respects part of the Capital Stock of the said Corporation; and every Shareholder of such new Stock shall be a member of the said Corporation, and be entitled to all and every the same powers, privileges and rights as the persons who are now Shareholders, in proportion to the interest or number of shares which he may acquire and to the amount of calls paid thereon, and shall also be liable and subject to the same obligations and stand interested in all the profits and losses of the said undertaking in proportion to the sum that he shall subscribe and pay thereto, as fully and effectually to all intents and purposes whatsoever as if such other or further sum had been originally raised as a part of the said first sum of fifteen thousand pounds; any thing herein contained to the contrary notwithstanding.

IX. And be it enacted, That it shall be lawful for the said Corporation from time to time to borrow either in this Province or elsewhere, all such sum or sums of money, not exceeding in all at any one time ten thousand pounds currency, as they may find expedient, and to make the bonds, debentures or other securities they shall grant for the sums so borrowed, payable either in currency or in sterling with interest, and at such place or places within or without this Province as they may deem advisable, and such bonds, debentures or other securities may be made payable to bearer, or transferable by simple endorsement or otherwise, and may be in such form as the Directors for the time being may see fit; and the said Directors may hypothecate, mortgage or pledge the lands, revenues and other property of the said Corporation, for the due payment of the said sums and the interest thereon: Provided always, that such Corporation shall not be allowed to borrow any part of the said sum of ten thousand pounds until at least one half of the said Capital Stock of the said Corporation hereinbefore authorized be paid up and available for the uses of the Corporation; and provided also, that no such bonds or debentures shall be issued by such Corporation for any amount less than one hundred pounds currency.

Corporation may borrow money from time to time.

Proviso.

Proviso.

X. And be it enacted, That the Stock of the said Corporation shall be deemed personal or moveable estate, notwithstanding the conversion of any portion of the funds constituting the same into lands; and at all the meetings of the Shareholders held in pursuance of this Act, whether the same be general or special, every Shareholder shall be entitled to as many votes as he shall have Shares in the said Stock, and such vote or votes may be given in person or by proxy; and all questions proposed or submitted for the consideration of the said meetings shall be finally determined by the majority of the votes, except in the case or cases otherwise provided for: And provided also, that no person shall be entitled to vote as proxy at any meeting unless he shall be a Shareholder in the said Corporation, and produce a written authority as such proxy in the form prescribed by the Schedule A.

Stock to be deemed personal estate.

Proviso.

XI. And be it enacted, That the Shares in the Stock of the said Corporation shall be assignable by delivery of the certificates, to be issued to the holders of such shares respectively, and by assignment in the form of the Schedule B, or in any other convenient form to be prescribed by any By-law of the said Corporation: and that by such assignment the party accepting such transfer shall thenceforth become in all respects a member of the said Corporation in respect of such share or shares in the place of the party so transferring the same; but no such transfer shall be valid or effectual until all

Shares of Stock how assignable.

calls

calls or instalments due on the shares purporting to be transferred shall have been fully paid up and discharged, and a certified copy of such transfer, extracted from the proper book of entry, and purporting to be signed by the Clerk, or other officer of the said Company duly authorized thereto, shall be sufficient *prima facie* evidence of every such transfer in all Courts in this Province.

Directors may establish offices in New York, &c. for certain purposes.

XII. And be it enacted, That the Directors of the said Corporation shall have power and authority to establish and have a place of business or office in the Cities of New York, Boston, Philadelphia and Detroit in the United States of America, and to open books of subscription in all or any of the said Cities for the stock of the said Corporation, and to receive there subscriptions for the said stock, transferable there respectively, and to make all such instalments called thereon, and dividends declared thereby, payable there respectively ; and the said Directors shall also have power to name one or more Agent or Agents or Commissioners in all or any of the aforesaid Cities, for all or any of the purposes aforesaid, and to allow to such Agent or Agents or Commissioners, a reasonable remuneration for his or their services, and all other necessary expenses of the said office and offices ; and it shall also be competent for the said Directors to make all such rules and regulations, and to prescribe all such forms as to them may seem meet for the better and more satisfactorily managing and conducting the affairs and business of the said Corporation in all or any of the Cities aforesaid, and for facilitating and rendering effectual the subscription for and transfer of and payments upon the said stock respectively, and for all other purposes connected therewith and incidental thereto : Provided always, that the said Directors may make By-laws prescribing the mode in which any shares of the stock in all or any or either of the said Cities may be made shares in Canada, or whereby any shares of the stock in Canada, may be made shares in the United States aforesaid.

May prescribe forms, &c.

Proviso.

Directors to be elected.

XIII. And be it enacted, That for managing the affairs of the said Corporation, there shall be from time to time elected out of the members of the said Corporation not less than three and not more than five persons, being each a proprietor of not less than three hundred shares of the said Capital Stock, to be Directors of the said Corporation, for ordering, managing and directing the affairs of the said Corporation ; and any three Directors shall form a *quorum* of the Board, and may exercise all the powers of the Directors : Provided always, that unless at a meeting of a majority of the Directors, no by-law, rule, resolution or regulation for raising money or disposing of the real estate of the Corporation shall be finally passed unless confirmed at the next meeting of the Directors to take place upon due notice given : Provided, that no Director shall have more than one vote at any meeting of Directors except the President or the Chairman of the meeting for the time being who shall in case of an equal division have the casting vote although he may have given one vote before ; and whenever any vacancy shall happen among the Directors by death, resignation or removal out of the Province, such vacancy shall be filled up until the next General Meeting of the Shareholders in such manner as may be prescribed by any By-law of the Corporation ; and the Directors shall have full power to dispose of such part of the Stock of the said Corporation as may remain to be disposed of, or as may from time to time be added to or fall into the general mass, either by forfeiture or otherwise, on such terms and conditions, and to such parties as they think most likely to promote the interest of the said Corporation ; and they shall also have full power to make such calls for money from the several Shareholders for the time being as is hereinbefore provided for, and to

Quorum.

Proviso.

Proviso.

Powers of Directors.

to sue for, recover and get in all such calls, whether already made or hereafter to be made, and to cause and declare the said shares to be forfeited to the said Corporation in case of non-payment, on such terms and in such way as they shall see fit to prescribe by any By-law ; and in any action to be brought to recover any money due on any call, it shall not be necessary to set forth the special matter in the declaration, but it shall be sufficient to allege that the defendant is a holder of one share or more in the said stock (stating the number of shares) and is indebted to the Corporation in the sum to which the calls in arrear shall amount (stating the number and amount of such calls,) whereby an action hath accrued to the Corporation by virtue of this Act ; and it shall be sufficient to maintain such action, to prove by any one witness, that the Defendant at the time of making such call was a Shareholder in the number of shares alleged, and that the calls sued for were made and notice thereof given, in conformity with the By-laws of the said Corporation, and it shall not be necessary to prove the appointment of the Directors, nor any other matter whatsoever ; that the said Directors shall and may use and affix or cause to be used and affixed the Common Seal of the said Corporation to any documents which in their judgment may require the same, and any act or deed bearing such seal, and signed by the President (or by any two Directors), and countersigned by the Secretary, shall be held to be the act or deed of the Corporation ; that they may appoint such and so many agents, officers and servants of the said Corporation under them as to the said Directors may seem meet, and may fix the salaries and remuneration of such officers, agents and servants ; may make any payments and enter into any contracts for the execution of the purposes of the said Corporation, and for all other matters necessary for the transaction of its affairs ; may generally deal with treat, purchase, lease, sell, mortgage, let, release and dispose of, and exercise all acts of ownership over the land, tenements, property and effects of the said Corporation ; may institute and defend in the name of the said Corporation all suits at law ; may from time to time displace the officers, agents and servants of the said Corporation, except as hereafter provided ; and that they shall and may have power to do all things whatsoever which may be necessary or requisite to carry out the objects of the Corporation, and to vest the present property and funds of the said Association in the Corporation hereby erected ; that they shall declare dividends of the profits of the said Corporation when and as often as the state of the funds thereof may permit ; may appoint when Special Meetings of the Shareholders shall be held, and determine on the mode of giving notice thereof, and of the manner in which the Shareholders may call or require such Special Meetings to be called ; that they shall have power to carry into force all and every the provisions and stipulations contained in the Articles of Agreement in the first Section of this Act referred to with respect to the appropriation and allotment, whether conditional or otherwise, of the shares of the said Company, and also with respect to all other matters and things in the said Articles of Agreement provided for, not inconsistent with the present Act ; and they shall have power to make By-laws for the government and control of the officers and servants of the said Corporation, and for appointing the salary or allowance to be made to them respectively ; and shall also have power to make and frame all other By-laws, Rules and Regulations for the management of the business of the said Corporation in all its particulars and details, whether hereinbefore specially enumerated or not, and the same also at any time to alter, change, modify and repeal, which said By-laws, Rules and Regulations shall be submitted for approval, rejection or alteration by the Stockholders at the next General Meeting, or at a Special Meeting to be called by the said Directors, and when and as so ratified and confirmed shall be put into writing and duly recorded

As to suits for instalments on Stock.

Further powers of Directors.

Power to make By-laws.

in the Minutes of the said Corporation, and be binding upon and observed and taken notice of by all members of the said Corporation; and any copy of the said By-laws, or any of them, purporting to be under the hand of the Clerk, Secretary or other Officer of the said Company, and having the seal of the Corporation affixed to it, shall be received as *prima facie* evidence of such By-laws in all Courts in this Province: Provided always, that the Stockholders may, at any General or Special Meeting, appoint such salary or compensation to the President and Directors respectively, as to them shall seem reasonable and proper.

Proviso:
Salary of
President and
Directors.

General Meet-
ings of Share-
holders.

XIV. And be it enacted, That the first General Meeting of the Shareholders of the said Corporation shall be held at the Office of the said Corporation in the Town of St. Catherines, (at which place the said Corporation shall have its principal place of business) on the third Thursday of February, one thousand eight hundred and fifty; and at such time and place, and on the like day in every year thereafter, the said Shareholders shall elect not less than three nor more than five fit and qualified persons to be Directors of the said Company in the place and stead of those who shall retire, as prescribed in the next following section; and until such first election, and until they shall respectively retire as aforesaid, the Trustees of the Association aforesaid, to wit: the said George K. Smith, John W. Telford, H. B. Pennock, Wm. L. Newbold, and Wm. C. Chace, and the survivors or survivor of them shall be and are hereby declared to be and are constituted Directors of the said Corporation; and they shall have and exercise all and every the powers and shall be subject to all and every the clauses, conditions, liability and restrictions imposed on the Directors to be chosen under this Act: Provided always, that in all actions or suits, or other legal proceedings to be brought against the said Corporation, it shall be lawful and sufficient for the Plaintiff or Complainant, or any other party, to cause Process to be served at the Office of the said Corporation in the Town of St. Catherines, or personally upon the President, or on any one of the Directors, or on the Secretary of the said Corporation, at any other place; and provided that at the first meeting of the Directors to be holden after the passing of this Act, the said Directors shall choose and elect from among themselves, some one to be President, and also some one to be Vice-President of the said Corporation.

Certain per-
sons appointed
first Directors.

Proviso: Ser-
vice of Process.

Retirement of
Directors.

XV. And be it enacted, That at the First General Meeting of the Shareholders, and at the Annual General Meeting in each year thereafter, two of the said Directors shall retire from office, (the order of retirement of the said Directors to be decided by lot); Provided always, that all the Directors so retiring shall be eligible for re-election; and the Directors, immediately after the election at each Annual Meeting, shall choose one of their own number to be President.

They may
be re-elected.

Failure to hold
Meeting not
to operate
dissolution of
Corporation.

XVI. And be it enacted, That the failure to hold the said First General Meeting or any other Meeting, or to elect such Directors or President, shall not dissolve the said Corporation, but such failure or omission shall and may be supplied by and at any Special Meeting to be called as the Directors, in conformity with the By-laws of the said Corporation, may see fit to appoint; and until such election of new Directors, those who may be in office for the time being shall be and continue in office and exercise all the rights and powers thereof until such new election be made, as hereinbefore provided.

XVII. And be it enacted, That the word "Lands" in this Act shall include all lands, tenements and hereditaments, and real or immoveable property whatsoever; and all words importing the singular number or the masculine gender only shall extend to more than one person, party or thing, and to females as well as males; and the word "Shareholder" shall include the heirs, executors, administrators, curators, legatees or assigns of such Shareholder, or any other party having the legal possession of any share, whether in his own name or that of any other, unless the context shall be inconsistent with such construction; and whenever power is by this Act given to do any thing, power shall be intended also to do all things which may be necessary to the doing of such thing; and generally all words and clauses herein shall receive such liberal and fair construction as will best ensure the carrying into effect of this Act according to its true intent and spirit.

Interpretation
clause.

XVIII. And be it enacted, That it shall not be lawful for the said Corporation to commence or proceed with their operations under this Act, unless they shall have first paid up the sum of ten per cent. on the amount of their Capital Stock.

Commence-
ment of opera-
tions.

XIX. And be it enacted, That nothing in this Act contained shall in any manner derogate from or affect the rights of Her Majesty, Her Heirs and Successors, or of any person or persons, Body Politic or Corporate, excepting so far as the same may be specially derogated from or affected by the provisions of this Act.

Rights of Her
Majesty, &c.
saved.

XX. And be it enacted, That this Act shall be deemed a Public Act, and as such judicially noticed by all Judges, Justices, and others whom it shall concern, without being specially pleaded.

Public Act.

SCHEDULE A.

FORM OF PROXY.

I, A. B., of _____ hereby appoint C. D. of _____ to be my Proxy, and to vote and act for me as such at all Meetings of the Shareholders of *The Neepigon Mining Company*, and in my name to do all things with regard to the business of the said Company, which I may, by law, do by Proxy.

Form of
Proxy.

Witness my hand, this _____ day of _____ 18
A. B.

SCHEDULE B.

FORM OF TRANSFER.

I, A. B., for value received, do hereby bargain, sell and transfer to C. D. _____ share (or shares) of the Stock of *The Neepigon Mining Company*, to hold to him the said C. D., his heirs, executors, curators, administrators and assigns, subject _____

Form of
Transfer.

subject to the same rules and orders, and on the same conditions that I held the same immediately before the execution hereof; and I, the said C. D., do hereby agree and accept of the said share (or shares) subject to the same rules, orders and conditions.

Witness, our hands and Seals, this
in the year

day of

A. B.
C. D.

MONTREAL :—Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CLXIV.

An Act to incorporate *The Huron Mining Company*.

[30th May, 1849,]

WHEREAS the several persons hereinafter named have, by their Petition, represented that they have associated themselves together, with divers others, for the purpose of exploring for and working Mines of Copper and other Ores, and of smelting the same on the shores of Lake Huron and elsewhere, by Articles of Agreement, entered into at the City of Montreal, the Twentieth day of November, one thousand eight hundred and forty-five, and have raised by subscription the capital necessary effectually to begin their operations, but that they experience great difficulties in carrying out the objects for which they are associated without an Act incorporating them with the powers hereinafter mentioned, and have prayed that such Act may be passed: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the Honorable Peter McGill, of Montreal, the Honorable George Moffat, of Montreal, George Desbarats, Esquire, of Montreal, George N. Saunders, Esquire, of New York, and their successors, and such and so many other persons or parties as have become, or shall become Shareholders in the Capital Stock hereinafter mentioned, shall be and they are hereby constituted a body politic and corporate, in fact and in name, by the name of *The Huron Mining Company*, and by that name shall and may sue and be sued, implead and be impleaded, answer and be answered unto in all Courts of Law or Equity, whatsoever and shall have uninterrupted succession with a Common Seal, which may by them be changed or varied at their pleasure.

Preamble.

Certain persons incorporated.

Corporate name and powers.

II. And be it enacted, That no Shareholder in the said Corporation shall be in any manner whatsoever liable for or charged with the payment of any debt or demand due by the said Corporation beyond the amount of his, her or their subscribed share or shares in the Capital Stock of the said Corporation.

Stockholders to be liable to the amount of their shares only.

III. And be it enacted, That the Capital Stock of the said Company shall be and the same is hereby declared to be fifteen thousand pounds, divided into twelve thousand shares: Provided always that the said Capital may be increased to twenty-five thousand pounds as hereinafter provided.

Capital Stock.

Calls on hold-
ers of Stock.

IV. And whereas the amount already paid upon the Stock is equal to one shilling and seven pence on each share of one pound five shillings: Be it enacted, That the calls to be hereafter made on the holders of the said Stock shall not exceed in the whole one pound three shillings and five pence currency per share, and the same shall be paid by instalments when and in such manner as shall be prescribed by the Directors hereinafter named: Provided also, that nothing herein contained shall exonerate, diminish or relieve any party from existing liability to the said Company, whether the said liability relates to contributions due or to fall due upon Stock already issued, or otherwise, but on the contrary all such liability and contributions shall and may be enforced in the same way, and the said Corporation shall have the same remedy to enforce the payment of calls already made, and all other calls and sums now due or called for, as is hereafter prescribed with respect to future calls and liabilities.

Proviso.

Certain prop-
erty and liab-
ilities transfer-
red to the
Corporation.

V. And be it enacted, That all and every the estate and property, real or personal belonging to the Association, formed under the Articles of Association aforesaid, at the time of the passing of this Act, or which may subsequently be acquired by them, and all debts or claims due to or possessed by the said Association shall be and hereby are transferred to and vested in the Corporation hereby established, which shall in like manner be liable to and for all debts due by or claims upon the said Association and the Trustees of the said Association, at the time of the passing of this Act, shall be Directors of the said Corporation, as if elected under this Act, until their successors shall be elected as hereinafter provided.

Corporation
may hold real
property to
extent of
£25,000.

VI. And be it enacted, That it shall be lawful for the said Corporation to have and hold such lands and immoveable or real property as may be necessary for carrying on the business of the said Corporation, provided the sum invested in real property purchased from private individuals do not at any one time exceed twenty-five thousand pounds; and it shall be lawful for the said Corporation to sell, lease or otherwise dispose of the said property and estate as they may see fit.

May explore
for the purpose
of finding
copper and
other ores.

VII. And be it enacted, That it shall be lawful for the said Corporation to engage in and follow the occupation and business of carrying on exploration for and of finding and getting copper and other ores, metals and minerals, and manufacturing and of disposing of the same for the benefit of the said Corporation, and to do all things necessary for the purposes aforesaid, not inconsistent with the rights of any other parties, or with the conditions of any grant or other title under which the said Corporation may hold the lands in which such things are to be done.

Corporation
may increase
Capital Stock
to £25,000
currency.

VIII. And be it enacted, That if the said sum of fifteen thousand pounds be found insufficient for the purposes of this Act, then and in such case it shall be lawful for the Members of the said Corporation, by a vote of not less than two thirds in number of the Shareholders, representing not less than eight thousand shares, at any General Meeting, to be expressly called for that purpose, to increase the Capital Stock of the said Corporation, either by the admission of new Members as subscribers to the said undertaking, or otherwise, to a sum not exceeding in all the sum of twenty-five thousand pounds, currency, including the said sum of fifteen thousand pounds, currency, hereinbefore authorized to be raised in such manner and upon such terms and conditions, and under such regulations as shall be approved and agreed on; and the capital so to be raised by the creation of new shares or otherwise shall be in all respects part of the Capital Stock
of

of the said Corporation ; and every Shareholder of such new Stock, shall be a Member of the said Corporation, and be entitled to all and every the same powers, privileges and rights as the persons who are now Shareholders, in proportion to the interest or number of shares which he may acquire, and to the amount of calls paid thereon, and shall also be liable and subject to the same obligations and stand interested in all the profits and losses of the said undertaking in proportion to the sum that he shall subscribe and pay thereto, as fully and effectually to all intents and purposes whatsoever as if such other or further sum had been originally raised as a part of the said first sum of fifteen thousand pounds ; any thing herein contained to the contrary notwithstanding.

IX. And be it enacted, That it shall be lawful for the said Corporation from time to time to borrow either in this Province or elsewhere, all such sum or sums of money, not exceeding in all, at any one time, ten thousand pounds, currency, as they may find expedient, and to make the bonds, debentures, or other securities they shall grant for the sums so borrowed payable either in currency or in sterling with interest, and at such place or places within or without this Province as they may deem advisable, and such bonds, debentures or other securities may be made payable to bearer, or transferable by simple endorsement or otherwise, and may be in such form as the Directors for the time being may see fit ; and the said Directors may hypothecate, mortgage, or pledge the lands, revenues, and other property of the said Corporation, for the due payment of the said sums and the interest thereon : Provided always, that such Corporation shall not be allowed to borrow any part of the said sum of ten thousand pounds until at least one half of the said Capital Stock of the said Corporation hereinbefore authorized be paid up and available for the uses of the Corporation ; and provided also, that no such bonds or debentures shall be issued by such Corporation for any amount less than one hundred pounds, currency.

Corporation
may borrow
money from
time to time.

Proviso.

Proviso.

X. And be it enacted, That the Stock of the said Corporation shall be deemed personal or moveable estate, notwithstanding the conversion of any portion of the funds constituting the same into lands ; and at all the meetings of the Shareholders held in pursuance of this Act, whether the same be general or special, every Shareholder shall be entitled to as many votes as he shall have Shares in the said Stock, and such vote or votes may be given in person or by proxy ; and all questions proposed or submitted for the consideration of the said meetings shall be finally determined by the majority of the votes, except in the case or cases otherwise provided for : And provided also, that no person shall be entitled to vote as proxy at any meeting unless he shall be a Shareholder in the said Corporation, and produce a written authority as such proxy in the form prescribed by the Schedule A.

Property
vested in
Directors for
time being.

XI. And be it enacted, That the Shares in the Stock of the said Corporation shall be assignable by delivery of the certificates, to be issued to the holders of such shares respectively, and by assignment in the form of the Schedule B, or in any other convenient form to be prescribed by any By-law of the said Corporation ; and that by such assignment the party accepting such transfer shall thenceforth become in all respects a member of the said Corporation in respect of such share or shares in the place of the party so transferring the same ; but no such transfer shall be valid or effectual until all calls or instalments due on the shares purporting to be transferred shall have been fully paid up and discharged, and a certified copy of such transfer, extracted from the proper book of entry, and purporting to be signed by the Clerk, or other

Shares of
Stock to be
assignable by
delivery of
certificates in
form of Sche-
dule B, &c.

other officer of the said Company duly authorized thereto, shall be sufficient *prima facie* evidence of every such transfer, in all Courts in this Province.

Directors may establish offices in London, Liverpool and in New York, &c. for certain purposes.

XII. And be it enacted, That the Directors of the said Corporation shall have power and authority to establish and have a place of business or office in the Cities of London and Liverpool in England, and New York, Boston, Philadelphia and Detroit in the United States of America, and to open books of subscription in all or any of the said Cities for the stock of the said Corporation, and to receive there, subscriptions for the said stock, transferable there, respectively, and to make all such instalments called thereon, and dividends declared thereby, payable there, respectively. And the said Directors shall also have the power to name one or more Agent or Agents or Commissioners in all or any of the aforesaid Cities, for all or any of the purposes aforesaid, and to allow to such Agent or Agents or Commissioners, a reasonable remuneration for his or their services, and all other necessary expenses of the said Office and Offices; and it shall also be competent for the said Directors to make all such rules and regulations, and to prescribe all such forms as to them may seem meet for the better and more satisfactorily managing and conducting the affairs and business of the said Corporation in all or any of the Cities aforesaid, and for facilitating and rendering effectual the subscription for and transfer of and payments upon the said stock respectively, and for all other purposes connected therewith and incidental thereto. Provided always, that the said Directors may make By-laws prescribing the mode in which any shares of the stock in all or any or either of the said Cities may be made shares in Canada, or whereby any shares of the stock in Canada may be made shares in England or in the United States aforesaid.

May prescribe forms, &c. for the same.

Proviso.

Directors to be elected.

XIII. And be it enacted, That for managing the affairs of the said Corporation, there shall be from time to time elected out of the members of the said Corporation not less than three and not more than five persons, being each a proprietor of not less than three hundred shares of the said Capital Stock, to be Directors of the said Corporation, for ordering, managing and directing the affairs of the said Corporation; and any three Directors shall form a quorum of the Board, and may exercise all the powers of the Directors: Provided always, that unless at a meeting of a majority of the Directors, no by-law, rule, resolution or regulation for raising money or disposing of the real estate of the Corporation, shall be finally passed unless confirmed at the next meeting of the Directors to take place upon due notice given: Provided, that no Director shall have more than one vote at any meeting of Directors except the President or the Chairman of the meeting for the time being, who shall in case of an equal division have the casting vote although he may have given one vote before; and whenever any vacancy shall happen among the Directors by death, resignation, or removal out of the Province, such vacancy shall be filled up until the next General Meeting of the Shareholders in such manner as may be prescribed by any By-law of the Corporation; and the Directors shall have full power to dispose of such part of the Stock of the said Corporation as may remain to be disposed of, or as may from time to time be added to or fall into the general mass, either by forfeiture or otherwise, on such terms and conditions, and to such parties as they think most likely to promote the interests of the said Corporation; and they shall also have full power to make such calls for money from the several Shareholders for the time being as is hereinbefore provided for, and to sue for, recover and get in all such calls, whether already made or hereafter to be made, and to cause and declare the said shares to be forfeited

Quorum.

Proviso.

Proviso.

Powers of Directors.

to

to the said Corporation in case of non-payment, on such terms and in such way as they shall see fit to prescribe by any By-law; and in any action to be brought to recover any money due on any call, it shall not be necessary to set forth the special matter in the declaration, but it shall be sufficient to allege that the defendant is a holder of one share or more in the said stock (stating the number of shares) and is indebted to the Corporation in the sum to which the calls in arrear shall amount (stating the number and amount of such calls,) whereby an action hath accrued to the Corporation by virtue of this Act; and it shall be sufficient to maintain such action, to prove by any one witness, that the Defendant at the time of making such call was a Shareholder in the number of shares alleged, and that the calls sued for were made and notice thereof given, in conformity with the By-laws of the said Corporation, and it shall not be necessary to prove the appointment of the Directors, nor any other matter whatsoever; that the said Directors shall and may use and affix or cause to be used and affixed the Common Seal of the said Corporation to any Documents which in their judgment may require the same, and any act or deed bearing such seal, and signed by the President (or by any two Directors), and countersigned by the Secretary, shall be held to be the act or deed of the Corporation; that they may appoint such and so many agents, officers and servants of the said Corporation under them as to the said Directors may seem meet, and may fix the salaries and remuneration of such officers, agents and servants; may make any payments and enter into any contracts for the execution of the purposes of the said Corporation, and for all other matters necessary for the transaction of its affairs; may generally deal with, treat, purchase, lease, sell, mortgage, let, release and dispose of and exercise all acts of ownership over the lands, tenements, property and effects of the said Corporation; may institute and defend in the name of the said Corporation all suits at law; may from time to time displace the officers, agents and servants of the said Corporation except as hereafter provided; and that they shall and may have power to do all things whatsoever which may be necessary or requisite to carry out the objects of the Corporation, and to vest the present property and funds of the said Association in the Corporation hereby erected; that they shall declare dividends of the profits of the said Corporation when and as often as the state of the funds thereof may permit; may appoint when Special Meetings of the Shareholders shall be held, and determine on the mode of giving notice thereof, and of the manner in which the Shareholders may call or require such Special Meetings to be called; that they shall have power to carry into force all and every the provisions and stipulations contained in the Articles of Agreement in the first Section of this Act referred to with respect to the appropriation and allotment, whether conditional or otherwise, of the shares of the said Company, and also with respect to all other matters and things in the said Articles of Agreement provided for, not inconsistent with the present Act; and they shall have power to make By-laws for the government and control of the officers and servants of the said Corporation, and for appointing the salary or allowance to be made to them, respectively, and shall also have power to make and frame all other By-laws, Rules and Regulations for the management of the business of the said Corporation in all its particulars and details, whether hereinbefore specially enumerated or not, and the same also at any time to alter, change, modify and repeal, which said By-laws, Rules and Regulations shall be submitted for approval, rejection or alteration by the Stockholders at the next General Meeting, or at a Special Meeting to be called by the said Directors, and when and as so ratified and confirmed shall be put into writing and duly recorded in the Minutes of the said Corporation, and be binding upon and observed and

As to suits for instalments on Stock.

Further powers of Directors.

Power to make By-laws.

and taken notice of by all Members of the said Corporation; and any copy of the said By-laws, or any of them, purporting to be under the hand of the Clerk, Secretary, or other Officer of the said Company, and having the Seal of the Corporation affixed to it, shall be received as *prima facie* evidence of such By-laws in all Courts in this Province; Provided always, that the Stockholders may, at any General or Special Meeting, appoint such salary or compensation to the President and Directors respectively, as to them shall seem reasonable and proper.

Proviso:
Salary of Pre-
sident and
Directors:

General Meet-
ings of Share-
holders.

XIV. And be it enacted, That the First General Meeting of the Shareholders of the said Corporation shall be held at the Office of the said Corporation in the City of Montreal, (at which place the said Corporation shall have its principal place of business) on the third Thursday of February, one thousand eight hundred and fifty; and at such time and place, and on the like day in every year thereafter, the said Shareholders shall elect not less than three nor more than five fit and qualified persons to be Directors of the said Company in the place and stead of those who shall retire, as prescribed in the next following section; and until such first election, and until they shall respectively retire as aforesaid, the Trustees of the Association aforesaid, to wit: the Honorable Peter McGill and George Desbarats, Esquire, and the survivors or survivor of them shall be and are hereby declared to be and constituted Directors of the said Corporation; and they shall have and exercise all and every the powers and shall be subject to all and every the clauses, conditions, liability and restrictions imposed on the Directors to be chosen under this Act: Provided always, that in all actions or suits, or other legal proceedings to be brought against the said Corporation, it shall be lawful and sufficient for the Plaintiff or Complainant, or any other party, to cause process to be served at the Office of the said Corporation in the City of Montreal, or personally upon the President, or on any one of the Directors, or on the Secretary of the said Corporation, at any other place; And provided that at the first meeting of the Directors to be holden after the passing of this Act, the said Directors shall choose and elect from among themselves, some one to be President and also some one to be Vice-President of the said Corporation.

Certain per-
sons appointed
Directors for
the present.

Proviso: Ser-
vice of Process.

Proviso.

Retirement of
Directors.

Directors may
be re-elected.

XV. And be it enacted, That at the First General Meeting of the Shareholders, and at the Annual General Meeting in each year thereafter, two of the said Directors shall retire from office, (the order of retirement of the said Directors to be decided by lot); Provided always, that all the Directors so retiring shall be eligible for re-election; and the Directors, immediately after the election at each Annual Meeting, shall choose one of their own number to be President.

Failure to hold
meeting not to
operate disso-
lution of Cor-
poration.

XVI. And be it enacted, That the failure to hold the said First General Meeting or any other Meeting, or to elect such Directors or President, shall not dissolve the said Corporation, but such failure or omission shall and may be supplied by and at any Special Meeting to be called as the Directors, in conformity with the By-laws of the said Corporation, may see fit to appoint; and until such election of new Directors, those who may be in office for the time being shall be and continue in office and exercise all the rights and powers thereof until such new election be made, as hereinbefore provided.

Interpretation
clause.

XVII. And be it enacted, That the word "Lands" in this Act shall include all lands, tenements, and hereditaments, and real or immoveable property whatsoever; and all words

words importing the singular number or the masculine gender only shall extend to more than one person, party or thing, and to females as well as males; and the word "Shareholder" shall include the heirs, executors, administrators, curators, legatees or assigns of such Shareholder, or any other party having the legal possession of any share, whether in his own name or that of any other, unless the context shall be inconsistent with such construction; and whenever power is by this Act given to do any thing, power shall be intended also to do all things which may be necessary to the doing of such thing; and generally, all words and clauses herein shall receive such liberal and fair construction as will best ensure the carrying into effect of this Act according to its true intent and spirit.

XVIII. And be it enacted, That it shall not be lawful for the said Corporation to commence or proceed with their operations under this Act, unless they shall have first paid up the sum of ten per cent. on the amount of their Capital Stock.

As to commencement of operations.

XIX. And be it enacted, That nothing in this Act contained shall in any manner derogate from or affect the rights of Her Majesty, Her Heirs and Successors, or of any person or persons, Body Politic or Corporate, excepting 'so far as the same may be specially derogated from or affected by the provisions of this Act.

Rights of Her Majesty, &c. saved.

XX. And be it enacted, That this Act shall be deemed a Public Act, and as such judicially noticed by all Judges, Justices, and others whom it shall concern, without being specially pleaded.

Public Act:

SCHEDULE A.

FORM OF PROXY.

I, A. B., of hereby appoint C. D. of to be my Proxy, and to vote and act for me as such at all Meetings of the Shareholders of *The Huron Mining Company*, and in my name to do all things with regard to the business of the said Company, which I may, by law, do by Proxy.

Witness my hand, this day of 18 A. B.

SCHEDULE B.

FORM OF TRANSFER.

I, A. B., for value received, do hereby bargain, sell and transfer to C. D. share (or shares) of the Stock of *The Huron Mining Company*, to hold to him the said C. D., his heirs, executors, curators, administrators and assigns, subject to

to the same rules and orders, and on the same conditions that I held the same immediately before the execution hereof ; and I, the said C. D., do hereby agree and accept of the said share (or shares) subject to the same rules, orders and conditions.

Witness, our hands and seals, this
in the year

day of

A. B.
C. D.

MONTREAL : Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CLXV.

An Act to incorporate certain persons under the style of *The Huron Copper Bay Company*.

[30th May, 1849.]

WHEREAS it will tend to the benefit of this country if its mineral resources be developed by the skill of the Miner; And whereas the several persons hereinafter named, together with certain other persons, have united and bound themselves to each other by Agreement executed at Montreal, before Notaries Public, and bearing date the second day of August, one thousand eight hundred and forty-seven, to prosecute conjointly the legitimate operations of Mining in this Province with adequate capital for that purpose; And whereas furthermore, the said individuals, acting under the sanction of the Crown, have explored for and discovered rich Mineral Veins of Copper and other Ores on a certain tract of land on the shores of Lake Huron and have employed labourers and miners in opening the said Veins; And whereas the said persons experience great difficulties in carrying out the objects for which they were associated without an Act incorporating them as hereinafter mentioned, and have prayed that such Act may be passed: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That John Simpson, of the Coteau du Lac, in Lower Canada, Esquire, Stewart Derbishire, of Montreal, in Lower Canada, Esquire, John Prince, of the Park Farm, in the Western District, Esquire, Arthur Rankin and Robert Stuart Woods, both of Sandwich, in the same District, Esquires, William A. Townsend, of Montreal aforesaid, merchant, and Strachan Bethune, of the same place, Esquire, and their successors, and such and so many other persons or parties as have become, or shall become Shareholders in the Capital Stock hereinafter mentioned, shall be and they are hereby constituted a Body Politic and Corporate, in fact and in name, by the name of *The Huron Copper Bay Company*, and by that name shall and may sue and be sued, implead and be impleaded, answer and be answered unto, in all Courts of Law or Equity whatsoever, and shall have uninterrupted succession with a Common Seal, which may by them be changed or varied at their pleasure.

Preamble.

Certain persons incorporated.

Corporate name and powers.

Capital Stock.

II. And be it enacted, That the Capital Stock of the said Association, divided into fifteen thousand shares, of thirty shillings, currency, each, shall form the Capital Stock of the said Corporation, subject to be increased as hereinafter provided.

III.

Liability limited to amount of Stock.

III. And be it enacted, That no shareholder in the said Corporation shall be in any manner whatsoever liable for or charged with the payment of any debt or demand due by the said Corporation, beyond the amount of his, her or their subscribed share or shares in the Capital Stock of the said Corporation not paid up.

Calls on holders of Stock.

IV. And be it enacted, That the calls made and to be made on the holders of the said Stock, inclusive of the calls already demanded, shall not exceed in the whole the sum of thirty shillings currency, per share, and the same shall be paid by instalments when and in such manner, as shall be prescribed by the Directors hereinafter named; Provided also, that nothing herein contained shall exonerate or relieve any party from any existing liability to the said Company, whether such liability result from any call or calls heretofore made by the Trustees of the said Company, or from any other cause or matter whatsoever, but on the contrary all such liabilities shall and may be enforced in the same way, and the said Corporation shall have the same remedies to enforce, and the same facilities of enforcing the payment of calls already made and all other calls and sums now due or called for, as are hereinafter provided with respect to future calls and liabilities.

Proviso.

Certain property and liabilities transferred to the Corporation.

V. And be it enacted, That all and every the estate and property, real or personal, belonging to the said Association formed under the Articles of Association aforesaid, at the time of the passing of this Act, and all debts or claims then due to or possessed by the said Association, shall be transferred to and vested in the Corporation hereby established, which shall in like manner be liable to and for all debts due by or claims upon the said Association; and the Trustees of the said Association hereinafter named, shall be Directors of the said Corporation, as if elected under this Act, until their successors shall be elected as hereinafter provided.

Corporation may hold real property to extent of £50,000.

VI. And be it enacted, That it shall be lawful for the said Corporation to have and hold such lands and immoveable or real property as may be necessary for carrying on the business of the said Corporation, provided the sum invested in real property purchased from private individuals or from the Crown do not at any one time exceed fifty thousand pounds; and it shall be lawful for the said Corporation to sell, lease, or otherwise dispose of the said property and estate as they may see fit.

May explore for the purpose of finding copper and other ores.

VII. And be it enacted, That it shall be lawful for the said Corporation to engage in and follow the occupation and business of carrying on exploration for and of finding and getting copper and other ores, metals and minerals, and of manufacturing and disposing of the same for the benefit of the said Corporation, and to do all things necessary for the purposes aforesaid, not inconsistent with the rights of any other parties, or with the conditions of any grant or other title under which the said Corporation may hold the lands in which such things are to be done.

Corporation may increase Capital Stock to £100,000 currency.

VIII. And be it enacted, That if the sum of twenty-two thousand five hundred pounds be by the said Corporation considered insufficient for the purposes of this Act, then and in such case it shall be lawful for the Members of the said Corporation by a vote of not less than two thirds in number of the Shareholders, representing not less than ten thousand shares, at any General Meeting to be expressly called for that purpose, to increase the Capital Stock of the said Corporation, either by the admission of new members as subscribers to the said undertaking, or otherwise, to a sum not exceeding one

one hundred thousand pounds, currency, including the said twenty-two thousand five hundred pounds, currency, hereinbefore authorized to be raised, in such manner and upon such terms and conditions and under such regulations as shall be approved and agreed upon; and the capital so to be raised by the creation of new shares, shall be in all respects part of the Capital Stock of the said Corporation; and every Shareholder of such new Stock shall be a member of the said Corporation, and be entitled to all and every the same powers, privileges, immunities and rights as the persons who are now Shareholders, in proportion to the interest or number of shares which he may acquire, and to the amount of calls paid thereon; and shall also be liable and subject to the same obligations and stand interested in all the profits and losses of the said undertaking, in proportion to the sum that he shall subscribe and pay thereto, as fully and effectually to all intents and purposes whatsoever, as if such other or further sum had been originally raised as a part of the said first sum of twenty-two thousand five hundred pounds; any thing herein contained to the contrary notwithstanding: But if at the time of such increase of capital taking place, the existing shares of the said Corporation be below par, then such new shares may be of such amount and may be issued in such manner and on such terms and conditions as the said Corporation shall think fit.

IX. And be it enacted, That it shall be lawful for the said Corporation from time to time to borrow, at such rate of interest, whether above or below six per centum per annum as they may think fit, either in this Province or elsewhere, all such sum or sums of money not exceeding in all twenty-five thousand pounds currency, as they may find expedient; and to make the bonds, debentures or other securities they shall grant for the sums so borrowed payable either in currency or in sterling with interest, and at such place or places within or without this Province as they may deem advisable, and such bonds, debentures or other securities may be made payable to bearer, or transferable by simple endorsement or otherwise, and may be in such form as the Directors for the time being may see fit; and the said Directors may hypothecate, mortgage or pledge the lands, revenues and other property of the said Corporation for the due payment of the said sums and the interest thereon: Provided always, that such Corporation shall not be allowed to borrow any part of the said sum of twenty-five thousand pounds, until at least one half of the said Capital Stock of the said Corporation hereinbefore authorized, be paid up for the uses of the Corporation: And provided also, that no such bond, debenture or other security shall be made or granted for a less sum than one hundred pounds currency.

Corporation may borrow money from time to time.

Proviso.

Proviso.

X. And be it enacted, That the Stock of the said Corporation shall be deemed personal or moveable estate, notwithstanding the conversion of any portion of the funds constituting the same into lands; and at all Meetings of the Shareholders held in pursuance of this Act, whether the same be general or special, every Shareholder shall be entitled to as many votes as he shall have shares in the said stock; and such vote or votes may be given in person or by proxy; and all questions proposed or submitted for the consideration of the said Meetings shall be finally determined by the majority of the votes, except in the case or cases otherwise provided for: And provided also, that no person shall be entitled to vote as proxy at any Meeting unless he shall be a Shareholder in the said Corporation and produce written authority as such proxy in the form prescribed by the Schedule A.

Stock of Corporation personal estate, &c.

Votes.

Proviso.

XI.

Shares of
Stock how
assignable.

XI. And be it enacted, That the shares in the Stock of the said Corporation shall be assignable by delivery of the certificates, to be issued to the holders of such shares respectively, and by assignment in the form of the Schedule B, or by any other convenient manner to be prescribed by any By-law of the said Corporation; and that by such assignment the party accepting such transfer shall thenceforth become in all respects a Member of the said Corporation in respect of such share or shares in the place of the party so transferring the same; but no such transfer shall be valid or effectual until all calls made on the shares purporting to be transferred, and all debts or moneys due to the said Corporation thereon, shall have been fully paid up and discharged; and a copy of such transfer extracted from the proper book of entry, and purporting to be signed by the Clerk or other Officer of the said Corporation duly authorized thereto, shall be sufficient *prima facie* evidence of every such transfer, in all Courts in this Province.

Directors may
open an office
in London,
Liverpool and
Bristol, New
York, Boston,
Philadelphia
and Detroit.

And may
make agents
in any of those
cities.

XII. And be it enacted, That the Directors of the said Corporation shall have power and authority to establish and have a place of business or office in the Cities of London, Liverpool and Bristol, in England, and New York, Boston, Philadelphia and Detroit, in the United States of America, and to open Books of Subscription in all or any of the said Cities for the Stock of the said Corporation, and to receive there subscriptions for the said Stock transferable there respectively, and to make all such instalments called thereon payable there respectively; and the said Directors shall also have power to name one or more Agent or Agents or Commissioners in all or any of the aforesaid Cities, for all or any of the purposes aforesaid, and to allow to such Agents or Commissioners a reasonable remuneration for his or their services, and all other necessary expenses of the said office and offices; and it shall also be competent for the said Directors to make all such Rules and Regulations, and to prescribe all such forms as to them may seem meet for the better and more satisfactorily managing and conducting the affairs and business of the said Corporation in all or any of the Cities aforesaid, and for facilitating and rendering effectual the subscription for and transfer of and payments upon the said Stock respectively; and for all other purposes connected therewith and incidental thereto: Provided always, that the said Directors may make By-laws prescribing the mode in which any shares of the Stock in all or any or either of the said Cities may be made shares in Canada, or whereby any shares of the Stock in Canada may be made shares in England or the United States aforesaid.

Proviso.

Directors of
Corporation
to be elected
to manage its
affairs.

Quorum.

Proviso.

Powers of
Directors.

XIII. And be it enacted, That for managing the affairs of the said Corporation, there shall, subject to the provisions hereinafter contained, be from time to time elected out of the Members of the said Corporation, not fewer than six persons, being each a proprietor of not less than fifty shares of the said Capital Stock, to be Directors of the said Corporation, for ordering, managing and directing the affairs of the said Corporation; and any three Directors shall form a *quorum* of the Board, and may exercise all the powers of the Directors: Provided, that no Director shall have more than one vote at any Meeting of Directors; and whenever any vacancy shall happen among the Directors by death, resignation or removal out of the Province, such vacancy shall be filled up until the next General Meeting of the Shareholders, in such manner as may be prescribed by any By-law of the Corporation; and the Directors shall have full power to dispose of such part of the Stock of the said Corporation as may remain to be disposed of, or as may from time to time be added to or fall into the general mass either by forfeiture or otherwise, on such terms and conditions and to such parties as they may think most likely

likely to promote the interests of the said Corporation; and they shall also have full power to make such calls for money from the several Stockholders for the time being as is hereinbefore provided for, and in the name of the said Corporation to sue for, recover and get in all such calls whether already made under the said Articles of Association or to be made under this Act, and to cause and declare the said shares to be forfeited to the said Corporation in case of non-payment, on such terms and in such way as shall be prescribed by any By-law; and to cause the punctual payment of the said calls by enforcing of any penalties that may be prescribed in that behalf by any By-law or By-laws of the said Company; and in any action to be brought to recover any money due on any call, it shall not be necessary to set forth the special matter in the declaration, but it shall be sufficient to allege that the defendant is the holder of one share or more in the said Stock (stating the number of shares) and is indebted to the Corporation in the sum to which the calls in arrear shall amount (stating the number and amount of such calls,) whereby an action hath accrued to the Corporation by virtue of this Act; and it shall be sufficient to maintain such action, to prove by any one witness that the Defendant at the time of making such call was a Shareholder in the number of shares alleged, and that the calls sued for were made and notice thereof given in conformity with the By-laws of the said Corporation, and it shall not be necessary to prove the appointment of the Directors nor any other matter whatsoever; That the said Directors shall and may use and affix or cause to be used and affixed the Common Seal of the said Corporation to any documents which in their judgment may require the same, and any Act or Deed bearing such Seal, and signed by the President (or by any two Directors) and countersigned by the Secretary, shall be held to be the Act or Deed of the Corporation; That they may appoint such and so many Agents, Officers and Servants of the said Corporation under them as to the said Directors may seem meet, and may fix the salaries and remuneration of such Officers, Agents and Servants; may make any payment and enter into any contracts for the execution of the purposes of the said Corporation, and for all other matters necessary for the transaction of its affairs; may generally deal with, treat, purchase, lease, sell, mortgage, let, release and dispose of and exercise all acts of ownership over the lands, tenements, property and effects of the said Corporation; may institute and defend in the name of the said Corporation all suits at law; may from time to time displace the Officers, Agents and Servants of the said Corporation, except as hereafter provided; and that they shall and may have power to do all things whatsoever which may be necessary or requisite to carry out the objects of the Corporation, and to vest the present property and funds of the said Association in the Corporation hereby erected; That they shall declare dividends of the profits of the said Corporation, when and as often as the state of the funds thereof may permit; may appoint when Special Meetings of the Shareholders shall be held, and determine on the mode of giving notice thereof, and of the manner in which the Shareholders may call or require such Special Meetings to be called; And they shall have power to make By-laws for the government and control of the Officers and Servants of the said Corporation, and shall also have power to make and frame all other By-laws, Rules and Regulations for the management of the business of the said Corporation in all its particulars and details, whether hereinbefore specially enumerated or not, and the same also at any time to alter, change, modify and repeal; which said By-laws, Rules and Regulations shall be submitted for approval, rejection or alteration by the Stockholders at the next General Meeting, or at a Special Meeting to be called by the said Directors, and when so ratified and confirmed shall be put into writing and duly recorded in the Minutes of the said Corporation, and be binding upon and

May sue for such calls.

What it shall be sufficient to allege and prove in such actions.

Further powers of Directors.

Power to make By-laws.

and observed and taken notice of by all the Members of the said Corporation ; and any copy of the said By-laws, or any of them, purporting to be under the hand of the Clerk, Secretary or other Officer of the said Company, and having the Seal of the said Corporation affixed to it, shall be received as *prima facie* evidence of such By-laws, in all Courts in this Province; Provided always, that the Stockholders may, at any General or Special Meeting, appoint such a salary or compensation to the President and Directors respectively, as to them shall seem reasonable and proper.

Proviso.

General Meeting of Shareholders.

XIV. And be it enacted, That the first General Meeting of the Shareholders of the said Corporation shall be held at the office of the said Corporation in the City of Montreal, (at which place the said Corporation shall have its principal place of business) on the first Monday in the month of July, one thousand eight hundred and forty-nine, and at such time and place, and on the like day in every year thereafter, the said Shareholders shall elect two fit and qualified persons to be Directors of the said Company in the place and stead of the two who shall retire as prescribed in the next following section ; and until such first election, and until they shall respectively retire as aforesaid, The Trustees of the Association aforesaid, hereinafter named, that is to say : The said John Simpson, Stewart Derbishire, John Prince, Arthur Rankin, W. A. Townsend, and Strachan Bethune, and the survivor or survivors of them, shall be and are hereby declared to be and constituted Directors of the said Corporation, and they shall have and exercise all and every the powers, and shall be subject to all and every the clauses, conditions, liability and restrictions imposed on the Directors to be chosen under this Act; Provided always, that in all actions or suits or other legal proceedings to be brought against the said Corporation, it shall be lawful and sufficient for the plaintiff or complainant, or any other party, to cause process to be served at the said office of the said Corporation in the City of Montreal, or personally upon the President, or any one of the Directors, or on the Secretary of the said Corporation, at any other place ; and provided also, that at the first meeting of the Directors to be holden after the passing of this Act, the said Directors shall choose and elect from among themselves some one to be President, and also some one to be Vice-President of the said Corporation.

Certain persons appointed Directors.

Proviso.

Proviso.

Retirement of Directors.

XV. And be it enacted, That at the first General Meeting of the Shareholders, and at the Annual General Meeting in each year thereafter, two of the said Directors shall retire in rotation (the order of retirement of the said persons hereinbefore named, to be decided by lot, on or before the said first Monday in July, one thousand eight hundred and forty-nine) : Provided always, that all Directors retiring at any time shall be eligible for re-election ; and the Directors, immediately after the election at each Annual Meeting, shall choose one of their own number to be President.

Proviso : Directors may be re-elected.

Failure to hold any Meeting not to operate dissolution of Corporation.

XVI. And be it enacted, That the failure to hold the said first General Meeting or any other meeting, or to elect such Directors or President shall not dissolve the said Corporation, but such failure or omission shall and may be supplied by and at any Special Meeting to be called by the Directors, or in any other manner to be allowed by the By-laws of the said Corporation, and until such election of new Directors, those who may be in office for the time being shall be and continue in office, and exercise all the rights and powers thereof until such new election be made, as hereinbefore provided.

XVII.

XVII. And be it enacted, That the word "Lands" in this Act shall include all lands, tenements and hereditaments, and real or immoveable property whatsoever; and all words importing the singular number or the masculine gender only, shall extend to more than one person, party or thing, and to females as well as males, and the word "Shareholder" shall include the heirs, executors, administrators, curators, legatees or assigns of such Shareholder, or any other party having the legal possession of any share, whether in his own name or in that of any other, unless the context shall be inconsistent with such construction; and whenever power is by this Act given to do any thing, power shall be intended also to do all things which may be necessary to the doing of such thing; and generally all words and clauses herein shall receive such liberal and fair construction as will best ensure the carrying into effect of this Act according to its true intent and spirit.

Interpretation clause.

XVIII. And be it enacted, That it shall not be lawful for the said Corporation to commence or proceed with their operations under this Act, unless they shall have first paid up the sum of ten per centum on the amount of their Capital Stock.

When operations may be commenced.

XIX. And be it enacted, That nothing in this Act contained shall in any manner derogate from or affect the Rights of Her Majesty, Her Heirs or Successors, or of any person or persons, Body Politic or Corporate, except so far as the same may be specially derogated from or affected by the provisions of this Act.

Rights of Her Majesty, &c. saved.

XX. And be it enacted, That this Act shall be deemed a Public Act, and as such shall be judicially noticed by all Judges, Justices and others whom it shall concern, without being specially pleaded.

Public Act.

SCHEDULE A.

FORM OF PROXY.

I, A, B, of
D, of
vote and act for me as such at all meetings of the Shareholders of *The Huron Copper Bay Company*, and in my name to do all things with regard to the business of the said Company, which I may, by law, do by Proxy.

hereby appoint C'
to be my Proxy, and to

Witness my hand, this
of 18

day

A. B.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CLXVI.

An Act to incorporate *The Ontario Marine and Fire Insurance Company.*

[30th May, 1849.]

WHEREAS John Young, Edward Cartwright Thomas, Archibald Kerr, Samuel Mills, A. T. Distin, W. P. McLaren, Daniel MacNab, Hugh C. Baker, Nehemiah Merritt, George S. Tiffany, Daniel Kelly, James Osborne, Donald Campbell, ————Helliwell, V. H. Tisdale, William M. Curran, George Evans, Richard Juson, Robert R. Smiley, Colin D. Reid, John O. Hatt, John F. Moore, John B. Dayfoot, Peter Carroll, Douglas Fraser, H. B. Willson, Miles O'Reilly, Frederick A. Ball, Henry Tinkle, G. O'Reilly, Thomas Boalet, P. S. Stevenson, John P. Larkin, H. W. Ireland, MacKeand, Bell & Co., James D. Mackay, Geo. W. Burton, Richard B. Street, John Young, senior, James Mathien, Geo. Angus, James Evans, A. Carpenter, Jacob Bastedo, J. S. Hogan, Thomas Routh, John Bradley, Andrew A. Wylie, O. N. Brainerd, Sir Allan N. MacNab, R. O. Duggan, Charles A. Sadlier, T. L. P. Filgrane, W. G. Dickinson, H. McKenney, W. Atkinson, Andrew T. Kerby, Winer & Sims, D. C. Gunn, Danl. Dewey, Robert McElroy, John Applegarth, S. Watson, M. Fisher, W. G. Kerr, W. L. Distin, Thomas M. Simons, Thomas Evans, William Leggo, James Robinson, S. M. Aitken, H. N. Titus & Co., George W. Baker, Robert Mackay, D. F. Jones, Jasper T. Gilkison, John Brown, George P. M. Ball, and others, have petitioned the Legislature of this Province praying that an association under the style and title of *The Ontario Marine and Fire Insurance Company* may be incorporated for the purpose of enabling the said petitioners and others to carry on the business of Fire, Inland Navigation and Marine Insurance with facility ; And whereas it hath been considered that the establishment of such an association would be greatly beneficial to the mercantile and agricultural interests of this Province, and tend to the retaining therein a large portion of the moneys annually sent away as premiums for such insurances : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That all such persons as now are or hereafter shall become stockholders of the said Company, shall be and are hereby ordained, constituted and declared to be from time to time and until the first day of January, one thousand nine hundred, a body corporate and politic in law, in fact and in name, by the style and title of *The Ontario Marine and Fire Insurance Company*,

Preamble.

Certain persons incorporated.

Corporate name and powers.

Company, and by that name, style and title they and their successors until the said first day of January one thousand nine hundred, shall and may have continued succession; and shall be capable in law of suing and being sued, pleading and being impleaded, answering and being answered unto, defending and being defended, in all Courts and places whatsoever, in all manner of actions, suits, complaints, matters and causes whatsoever; and that they and their successors may have a common seal, and may change and alter the same at pleasure; and also that they and their successors by and under the name, style and title of *The Ontario Marine and Fire Insurance Company* shall be capable in law of purchasing, holding or conveying any estate, real or personal, for the use of the said Corporation, subject to the rules and conditions hereinafter mentioned.

Capital Stock.

II. And be it enacted, That a share in the stock of the said Corporation shall be twelve pounds ten shillings or the equivalent thereof in specie, and the number of shares shall not exceed eight thousand; and that books of subscription shall be opened in the principal Cities and Towns of this Province at the same time, of which public notice shall be first given by such person or persons and under such regulations as the majority of the said petitioners shall direct: Provided always, that it shall and may be lawful for the said Corporation to increase its capital stock to a sum not exceeding two hundred and fifty thousand pounds, as a majority of the stockholders at a meeting to be expressly convened for that purpose shall agree upon.

Proviso.

First election of Directors.

III. And be it enacted, That it shall and may be lawful as soon as two thousand out of the aforesaid eight thousand shares shall have been taken up, or twenty-five thousand pounds out of the aforesaid capital stock of one hundred thousand pounds shall have been subscribed, for the shareholders or subscribers to proceed to the election by ballot of twelve Directors, at such time and place as the majority of such subscribers shall appoint, giving fifteen days' notice thereof in the *Canada Gazette* and in one newspaper at least in each District where subscription has been made, which Directors shall be subjects of Her Majesty and stockholders at the time of their election and during their continuance in office to the amount of twenty shares, and shall have power to choose from among themselves a President and Vice-President, and the said Directors shall thereupon at their first meeting thereafter divide themselves by lot into three classes of four each, who shall go out of office in rotation as hereinafter provided for.

Number of votes to which Stockholders will be entitled.

IV. And be it enacted, That each stockholder shall be entitled to a number of votes proportioned to the number of shares which he or she shall have held in his or her own name at least three months prior to the time of voting, according to the following ratios, that is to say: at the rate of one vote for each share not exceeding four; five votes for six shares; six votes for eight shares; seven votes for ten shares, and one vote for every five shares above ten; that all votes given at any meeting may be either personally or by proxy, the holders of such proxies being stockholders authorized by writing under the hands of the stockholders nominating such proxy, and every proposition at any such meeting shall be determined by a majority of the votes of the parties present, including proxies: Provided always, that the authority to any such proxy shall bear date within six months of the time of meeting at which it is produced. And provided also, that no person, co-partnership or body politic, shall be entitled to more than fifteen votes at any such meeting or on any one proposition.

Proviso.

Proviso.

V. And be it enacted, That the persons chosen Directors of the said Corporation by the stockholders as aforesaid, shall hold their offices until the second Monday in February, one thousand eight hundred and fifty, or until the election hereinafter provided takes place.

Time for which Directors shall hold office:

VI. And be it enacted, That a general meeting of the stockholders of the said Corporation shall be holden in the City of Hamilton, at the place of business of the said Corporation, on the second Monday in the month of February one thousand eight hundred and fifty, and thereafter on the same day in each and every year, and that at such meeting the four Directors whose names stand first on the roll or list of Directors shall be held to vacate their seats, and the stockholders present at such meeting, either in person or by proxy, shall proceed to elect by ballot four stockholders to serve as Directors for the ensuing three years, who shall upon election be placed at the bottom of the roll of Directors: Provided always, that nothing herein contained shall be held to render the retiring Directors ineligible to re-election.

General Meetings of Stockholders.

Proviso:

VII. And be it enacted, That if any Director of the said Corporation die, resign or become disqualified or incompetent to act as a Director, or cease to be a Director by any other cause than that of going out of office in rotation as aforesaid, the remaining Directors if they think proper so to do, may elect in his place any Stockholder duly qualified to be a Director, and the Stockholder so elected to fill up any such vacancy shall continue in office until the first yearly meeting after such vacancy, and the Stockholders then present shall elect a new Director who shall hold office for the same period as the Director would have done whose death, resignation or disqualification caused the vacancy.

As to vacancies in the offices of Director.

VIII. And be it enacted, That the Corporation hereby created shall have power and authority to make and effect contracts of Insurance with any person or persons, body politic or corporate, against loss or damage by fire to any houses, stores or other buildings, shipping and vessels of all kinds, and any goods, chattels or personal property whatsoever; and also against losses or damage of or to vessels, boats or other craft, either sea going or navigating upon the lakes or rivers of this Province or elsewhere, and against any loss or damage of or to the cargoes or property conveyed in or upon any such vessels, boats or other craft, or to timber or other property of every description conveyed in any manner upon the said waters, and generally to do all matters and things relating to such objects; and all policies, checks and all other instruments shall be subscribed by the President, or in his absence by the Vice-President, or in case of his absence by any three of the Directors for the time being, and countersigned by the Secretary.

Corporation may insure houses, vessels, &c.

Policies, &c. how executed.

IX. And be it enacted, That it shall be lawful for any person or persons to subscribe for such and so many shares as he, she or they may think fit, not however exceeding during the first month after the subscription books are opened, eighty shares, and one per centum shall be paid at the time of subscription, and four per centum to be ready as a deposit to be called for by the Directors, as soon as they may deem expedient, and the remainder shall be payable in such instalments as a majority of the Directors may determine upon: Provided always, that no instalment shall exceed five per centum upon the Capital Stock in any period of six months, nor be called for, nor become payable in less than sixty days after public notice shall have been given in one newspaper

As to subscription for Shares during the first month, &c.

Proviso as to instalments.

newspaper published in the City of Hamilton, and the *Canada Gazette*, and by circular addressed to each Stockholder at his, her or their last known residence; if any Stockholder or Stockholders as aforesaid, shall refuse or neglect to pay to the said Directors the instalment due upon any share or shares held by him, her or them, at the time required so to do, such Stockholder or Stockholders as aforesaid, shall forfeit such share or shares as aforesaid, together with the amount previously paid thereon, and such forfeited share or shares may be sold at a public sale by the Directors, after such notice as they may direct, and the moneys arising therefrom, shall be applied for the purposes of this Act; Provided always, that in case the money produced by any sale of shares be more than sufficient to pay all arrears and interest together with the expense of such sale, the surplus of such money shall be paid on demand to the owner, and no more shares shall be sold than what shall be deemed necessary to pay such arrears, interest and expenses.

Proviso.

Provision as to
arrears of calls,
&c.

What must be
alleged and
proved in
suits for instal-
ments.

X. And be it enacted, That if payment of such arrears of calls, interest and expenses, be made before any share so forfeited and vested in the Company shall have been sold, such share shall revert to the party to whom the same belonged before such forfeiture, as if such calls had been duly paid; And that in all actions or suits for the recovery of such arrears or calls, it shall be sufficient for the said Company to allege that the defendant being an owner of such shares, is indebted to the said Company in such sums of money as the calls in arrear amount to for such and so many shares, whereby an action hath accrued to the Company by virtue of this Act, and on the trial it shall only be necessary to prove that the defendant was owner of some shares in the Company, that such calls were in fact made, that notice was given as directed by this Act, and that it shall not be necessary to prove the appointment of the Directors who made such calls, nor any other matter whatsoever.

If all the Stock
be not sub-
scribed within
a certain time,
former Sub-
scribers may
increase their
Subscription.

Proviso.

XI. Provided also, and be it enacted, That if the whole number of shares shall not be subscribed for within one month after the said Books of Subscription shall be opened, then it shall be lawful for any former subscriber or subscribers to increase his, her or their subscription; and provided further, that if the total amount of subscriptions, within the period aforesaid, shall exceed the Capital Stock limited by this Act to one hundred thousand pounds, then, and in such cases, the shares of each subscriber or subscribers, above ten shares, shall, as nearly as may be, be proportionately reduced until the total number of shares be brought down to the limits aforesaid; And provided nevertheless, that the said limitation in respect to persons subscribing to the said Capital Stock shall not extend or be construed to extend to prevent the acquisition of a greater number of shares by purchase after the said Corporation shall have commenced its operations.

Meetings of
Directors.

XII. And be it enacted, That the said Directors shall meet together at least once a week at such time and place as may be designated in the By-laws, for the purpose of transacting the business of the Corporation, at which meeting four or more of the Directors aforesaid shall be a *quorum* for the purpose of transacting and managing the details of business and affairs of the said Corporation, and all questions before them shall be decided by a majority of votes, each Director to have one vote; and in case of an equality of votes, the President, Vice-President, or presiding Director, shall give the casting vote over and above his proper vote as a Director, and that at such weekly meetings of the Directors, the President or Vice-President, or in their absence the Director appointed by a majority of the Directors present, shall preside.

XIII.

XIII. And be it enacted, That at all meetings of the Stockholders, the President or Vice-President, or in their absence, a Director chosen by the Stockholders shall preside, who, in case of an equality of votes, shall give the casting vote over and above his proper votes.

Who shall
preside at
Meetings.

XIV. And be it enacted, That any number of the Directors of the said Corporation, being a majority of the said Directors, shall have full power and authority to make, prescribe and alter such By-laws, Rules, Regulations and Ordinances, as shall appear to them proper and needful, touching the well ordering of the Corporation, the management and disposition of its stock, property, estate and effects; and also to call in any instalment or instalments of the Capital Stock of the said Corporation, at such time and season as they shall think fit, giving due notice thereof, according to the ninth section of this Act: also to declare and cause to be paid or distributed to the respective Stockholders any dividend or dividends of profits at such times and seasons as they shall think proper, or add the same to the paid up portion of the Capital Stock: also to appoint a Secretary and such other persons as to them may appear necessary for the carrying on the business of the said Corporation, with such salary and allowances to each as they may think meet and advisable; Provided always, that for the purposes in this section of this Act, mentioned, a majority of the Directors at least shall be present and assisting; And provided further, that all such By-laws, Rules, Regulations and Ordinances made by the Directors as aforesaid, shall be subject to the control of the Stockholders at their Annual Meeting, but not so as to render invalid any act done by the Directors prior to any resolution passed at such General Meeting.

Majority of
Directors may
make By-laws.

Other powers
of Directors.

Proviso.

Proviso as to
By-laws.

XV. And be it enacted, That the said Corporation shall be in law capable of acquiring by purchase, lease, mortgage or otherwise, and of holding absolutely or conditionally, any lands, tenements, real or immoveable estate, and the same to sell, alienate, let, release, transfer and dispose of as to them shall seem expedient; Provided always, that nothing herein contained shall be considered as permission to hold any real estate beyond what may be necessary for the said Corporation to hold for its own immediate accommodation in relation to the convenient transaction of its business, or such as shall have been *bonâ fide* mortgaged to it by way of security or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales upon judgments which shall have been obtained for such debts; And provided also, that it shall not be lawful for the said Corporation to deal or use or employ any part of the stock, funds or moneys thereof, in buying or selling any goods, wares or merchandizes, or in any banking operations whatsoever, but it shall nevertheless be lawful for the said Corporation to purchase and hold for the purpose of investing therein any part of their funds or money, any of the public securities of this Province, the stocks of any of the Banks or other chartered companies, and the bonds and debentures of any of the incorporated Cities or Towns, or Municipal Districts, and also to sell and transfer the same; and also to make loans upon or purchase bonds, mortgages and other securities, and the same to call in, sell and re-loan as occasion may render expedient; and provided further, that the said Corporation shall be bound to sell or dispose of any real estate so purchased or conveyed to it as aforesaid, (except such as may be necessary as aforesaid, for the convenient transaction of its business,) within seven years after acquiring the same.

Corporation
may hold, &c.
real estate.

Proviso as to
real estate.

Proviso as to
business of the
Corporation.

Proviso as to
real estate.

Votes on transferred Shares.

XVI. And be it enacted, That no transferred share shall entitle the person to whom it is transferred to a vote, until the expiration of ninety days after such transfer.

Transfers to be entered.

XVII. And be it enacted, That no transfer of any share of the said Corporation shall be valid until entered in the books of the said Corporation, according to such form as the Directors may from time to time determine, and that until the whole of the Capital Stock of the said Corporation is paid up, it shall be necessary to obtain the consent of the Directors to such transfer being made; Provided always, that no Stockholder indebted to the said Corporation shall be permitted to make a transfer or receive a dividend until such debt be paid, or secured to be paid to the satisfaction of the Directors.

Proviso.

Stockholders may demand names of all Stockholders.

XVIII. And be it enacted, That during the hours of business every Stockholder of the said Corporation shall have power to ask and receive from the President or Secretary the names of all the Stockholders of the said Corporation.

Provision with respect to debts of Corporation after its dissolution.

XIX. And be it enacted, That in respect to all debts which shall be contracted by the said Corporation, or obligations incurred before the said first day of January, one thousand nine hundred, or whenever the said Corporation may be dissolved, the persons composing the said Corporation at the time of its dissolution, shall be responsible in their individual and private capacity to the extent of their respective shares and no further, in any suit or action to be brought or prosecuted after the dissolution of the said Corporation.

Return to be annually furnished to Parliament.

XX. And be it enacted, That it shall be the duty of said Corporation to make a return under the hand of the President and Secretary to the Provincial Parliament once a year, which return shall contain a full and true account of the funds and property of the said Corporation, the amount of capital subscribed and paid in; the amount of property ensured during the previous year; the amount of insurance charges upon the several kinds of property insured, and the amount which the Corporation have paid or are liable to pay for losses during such year; a copy of which return shall be laid before the Stockholders at their next meeting, and sent to each, to their address.

Default to elect not to dissolve Corporation.

XXI. And be it enacted, That if at any time it shall happen that an election of Directors should not be made on the several days hereinbefore provided for their election, the said Corporation shall not for that cause be deemed to be dissolved; and it shall and may be lawful on any other day to hold and make an election of Directors in such manner as may be directed and required by the By-laws of the said Corporation.

Public Act.

XXII. And be it enacted, That this Act be and is hereby declared to be a Public Act, and that the same may be construed as such in Her Majesty's Courts in this Province.

As to forfeiture for non-user.

XXIII. And be it enacted, That the present Act shall in no wise be forfeited for non-user at any time before the first day of March, one thousand eight hundred and fifty-two.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CLXVII.

An Act to incorporate *The Provincial Mutual and General Insurance Company*.

[30th May, 1849.]

WHEREAS Robert Easton Burns, Joseph C. Morrison, Richard C. Gapper, Henry Rowsell, James Browne, Duncan McDonell, Esquires, and others, have petitioned the Legislature, praying that an Association under the style and title of *The Provincial Mutual and General Insurance Company*, may be incorporated as well for the purpose of enabling parties, owners of or interested in property situated in country places and comparatively safe from fire, mutually to insure each other, as also the better to enable such institution to conduct and extend the business of Fire, Marine and Life Assurance, and for granting Annuities and sums of money payable at future periods within Her Majesty's Dominions in North America, and other places abroad; And whereas it hath been considered that it would in many respects be greatly advantageous if such Corporation were established: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That all such persons as now are or hereafter shall become Members of the said Company, shall be and are hereby ordained, constituted and declared to be a body corporate and politic in law, in fact and in name, by the style and title of *The Provincial Mutual and General Insurance Company*, and by that name, style and title they and their successors shall and may have continued succession, and shall be capable in law of suing and being sued, pleading and being impleaded, answering and being answered unto, defending and being defended, in all manner of actions, suits, complaints, matters and causes whatsoever; and that they and their successors may have a Common Seal, and may change and alter the same at pleasure; may mutually insure their respective properties under the restrictions, limitations and conditions hereinafter contained, or generally to assure others for such time and at such premiums as shall be agreed upon between the said Corporation and parties insuring; and also, that they and their successors by and under the name of *The Provincial Mutual and General Insurance Company*, shall be capable in law of purchasing, holding and conveying any estate, real or personal, for the use of the said Company, subject to the rules and conditions hereinafter mentioned.

Preamble.

Certain persons incorporated as *The Provincial and General Insurance Company*, and certain powers conferred on them.

Stock of Com-
pany divided
into "Mutual"
and "Proprie-
tary."

II. And be it enacted, That the stock and property of the said Company shall be held liable for the payment of all losses that may from time to time occur to the said Company, and for that purpose shall be divided into and consist of two separate and distinct descriptions of stock namely, *Mutual* and *Proprietary*, the Mutual Stock being composed of premium notes deposited for the purpose of Mutual Insurance, together with all payments and other property received or held thereon or in consequence of such Mutual Insurance; and the Proprietary Stock being composed of Stock in shares subscribed and paid for the purpose of general assurance to other parties, which proprietary stock shall not exceed one hundred thousand pounds, divided into shares of twenty pounds each; and also that the Members of or persons composing the said Company shall in like manner consist of, and be divided into two classes, namely: those who deposit Premium Notes for the purpose of Mutual Insurance, denominated Mutual Members; and Proprietary Members, or those who hold shares in the Proprietary Stock of the said Corporation; Provided always, that nothing herein contained shall prevent the same person from holding at the same time both descriptions of Stock.

Members divi-
ded into "Mu-
tual and Pro-
prietary"
Members.

Liability of
Mutual Mem-
bers and
Proprietary
Members
respectively.

III. And be it enacted, That persons being Members of the said Corporation by reason of deposit of premium notes for the purpose of Mutual Insurance, shall not be held liable for any claims for losses or payments, beyond the amount of his, her or their premium notes respectively; and neither shall Proprietary Members be held liable for any claims for losses or payments beyond the amount of such share or shares of the Proprietary Stock which each may respectively hold; and also, in all the transactions of the said Company the profits and benefits arising from or on account of the mutual branch of the said Corporation shall be secured to the members thereof; and in like manner the profits and benefits arising from or on account of the Proprietary Branch of the said Company, shall be secured to the proprietary members; and further, all the expenses necessary and incurred for the conducting and management of the said Company, shall be fairly assessed upon and divided between each branch or department of the said Company.

As to profits
and expenses
of another
Branch.

No dividends
out of Capital
Stock.

IV. Provided always, and be it enacted, That no dividend or bonus shall be declared or paid out of the capital stock of the Company, whether proprietary or mutual.

What real
estate the
Company may
hold.

V. And be it enacted, That the said Company by their corporate name aforesaid, shall be capable of purchasing, having and holding to them and their successors such estate, real, personal or mixed, as may be requisite for its accommodation in relation to the convenient transaction of its business; and may take and hold any real estate *bona fide* mortgaged to the said Company, by way of security for the payment of any debts which may be contracted with the said Company, and to proceed on the said mortgaged securities for the recovery of the moneys thereby secured, either in law or equity, in the same manner as any other mortgagee is or shall be authorized to do, and also to purchase on sales made by virtue of any proceedings at law, or any order or decree of any Court of Equity, or any other legal proceedings or otherwise, to receive and to take any real estate in payment, or towards the satisfaction of any debt previously contracted and due to the said Corporation, and to hold the same until they can conveniently and advantageously sell and convert the same into money or other personal property: Provided always, that the lands, tenements and hereditaments which it shall be lawful for the said Company to hold, shall be only such as shall be requisite for its accommodation in relation to the convenient transaction of its business, or such

Proviso.

as shall have been *bonâ fide* mortgaged to it by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales upon judgments which shall have been obtained for such debts.

VI. And be it enacted, That it shall not be lawful for the said Company to deal in, use or employ any part of the funds or moneys thereof in buying or selling any goods, wares or merchandize, in the way of traffic, or in banking operations; but it shall nevertheless be lawful for the said Company to purchase or hold any stock, Government securities, or other securities of public companies, or funded debt for the purpose of investing therein any part of their funds or money, and also to sell and transfer the same, and again to renew such investment when and as often as a due regard to the interests of the said Company shall require; and also, to make loans of the funds on bond and mortgage, and the same to call in and re-loan as occasion may render expedient.

Company shall not deal in Merchandize nor engage in Banking.

May make Loans.

VII. And be it enacted, That the property, affairs and concerns of the said Company shall be managed and conducted by a Board of eleven Directors, one of whom shall be chosen President, and one Vice-President, which Board in the first instance and until the first General Annual Meeting of the Company, and until others may be chosen and appointed as hereinafter provided, shall consist of William Ledley Perrin, Robert Easton Burns, Richard C. Gapper, Franklin Jackes, J. G. Bowes, James Browne, William Gooderham, Francis Neale, William Clark, being the present Managing Committee of the said Company, together with two others, being Members of the said Company, and qualified for such office as hereinafter provided, to be chosen and appointed by the said present Managing Committee, and of which Board three Directors shall go out of office by rotation each year, but who shall nevertheless be immediately eligible for re-election as Directors; and the election of three Directors in place of those so retiring from office shall be held and made at the General Annual Meeting of the Company by such of the Members thereof as shall attend for that purpose, either in their own proper persons or by proxy; and all elections of such Directors shall be by ballot, and the three persons who shall have the greatest number of votes at any election shall be Directors; and if it shall happen at any such election that two or more persons have an equal number of votes, in such manner that a greater number of persons than three shall by a plurality of votes appear to be chosen Directors, then the said Members hereinbefore authorized to hold such election, shall proceed to elect by ballot until it is determined which of the said persons so having an equal number of votes shall be Director or Directors, so as to complete the whole number of eleven; and the said Directors so chosen, as soon as may be after the said election, shall proceed to elect one of their number to be President, and one other of their number to be Vice-President; and if any vacancy or vacancies shall at any time happen among the Directors, or in the office of President or Vice-President, by death, resignation, removal from the Province, or ceasing to hold the interest in the Corporation hereinafter required, such vacancy or vacancies shall be filled up for the remainder of the year in which they may happen by a person or persons to be nominated by a majority of the Directors; Provided always, that no person shall be elected to the office of Director who is not a Member of the Company holding an interest therein, either to the extent of Mutual Insurance to the amount of five hundred pounds, together with five shares of proprietary stock, or if mutually insured to a less amount than five hundred pounds, and more than three hundred and fifty, together with ten shares of proprietary stock, or if so insured

Concerns of Company to be managed by a Board of Directors.

Term of Office.

Manner of proceeding with election of Directors.

Election of President.

Vacancies among Directors, &c.

Proviso: Qualification of Directors:

to less than three hundred and fifty pounds and more than two hundred pounds, to possess fifteen shares; and if not mutually insured, or so insured to a less amount than two hundred pounds, then to hold not less than twenty shares of proprietary stock.

Directors to name day for holding General Annual Meetings, and give notice thereof.

VIII. And be it enacted, That the Board of Directors shall name and determine the day for the holding of the General Annual Meetings of the Company; and public notice of all General Meetings shall be given in at least two newspapers that may be published in the Province of Canada, at least one month previous to the time of holding the said General Meeting or Meetings, and at the first General Annual Meeting of the Company to be held as above directed, the Members then present shall decide and determine by a By-law of the Company to be then passed, the mode and manner in which the three retiring Members shall be then and in future elected, and the notice of all subsequent General Annual Meetings for election of Directors shall contain the names of the three retiring Directors.

Members entitled to votes in proportion to their Stock.

IX. And be it enacted, That each Member of the said Company shall be entitled to the number of votes proportioned to the amount of Stock by him, her or them insured or held at least one month prior to the time of voting, according to the following rates, that is to say: Mutual Members for any sum insured in the said Company amounting to fifty pounds, one vote; two hundred pounds, two votes; three hundred and fifty pounds, three votes; and five hundred pounds four votes: Proprietary Members, one vote for each share not exceeding four; five votes for six shares; six votes for eight shares; seven votes for ten shares, and one vote for every five shares above ten.

Failure to elect not to dissolve the Corporation.

X. And be it enacted, That if it shall happen at any time or for any cause that an election of Directors shall not be made on any day when pursuant to this Act or the Ordinances of the Company it ought to have been made, the said Corporation shall not for that cause be dissolved, but it shall be lawful on any other day to hold and make an election of Directors in such manner as shall have been regulated by the By-laws and Ordinances of the Company, and the Directors in office shall so continue until a new election shall be made.

Majority of Directors to make By-laws, &c.

XI. And be it enacted, That any number of the Directors of the said Company being a majority of the said Directors, shall have full power and authority to make, prescribe and alter such By-laws, Rules, Regulations and Ordinances as shall appear to them proper and needful, touching the well ordering of the Company, the rates and amount of insurance and issuing of policies; the management and disposition of its stock, property, estate and effects; and also to call in any instalment or instalments or assessment or assessments, at such time and season and times and seasons as they shall think fit, giving due notice thereof as hereinafter provided, and also to declare and cause to be paid or distributed to the respective Stockholders of the Company any dividend or dividends of profits at such time and seasons as they shall deem expedient; and also to appoint a Secretary and Treasurer, with such salary and allowances to each as well as to other Officers or Agents of the Company, and take security from them for the due performance of their respective duties as they shall think meet and advisable; Provided always, that for the purposes in this section mentioned, except as hereinafter specially provided, a majority of the Directors shall be present and assisting, and it shall not be competent for a Board consisting of a less number of Directors than were present at the time, to alter, repeal or amend any matter or thing so done.

Proviso.

XII.

XII. And be it enacted, That there shall be a weekly meeting of the Board of Directors of the said Company, and any three or more of the said Directors shall be a *quorum* for the purpose of transacting and managing the details of business and affairs of the said Company, and at all meetings of the Board of Directors, all questions before them shall be decided by a majority of voices or votes, and in case of an equality of votes, the President, Vice-President or presiding Director shall give the casting vote over and above his proper vote as a Director: Provided always, that nothing herein contained shall be construed to authorize the making, prescribing, altering or repealing any By-laws or Ordinances of the said Company, or calling in any instalments or assessments on stock, or declaring dividends of profits, or the appointment of Treasurer or Secretary, or the appointments of salaries to or securities from Officers or Agents of the said Company by any less number of Directors, or in any other manner than is mentioned and provided in the next preceding section.

Directors to hold a weekly meeting for dispatch of business, and three to be a *quorum*.

Proviso as to By-laws.

XIII. And be it enacted, That the said Directors, and such others as may be chosen by the said Company, shall receive a reasonable compensation for their attendance at the Board, to be ascertained and determined by a By-law or Rule of the Board, which compensation shall not exceed fifteen shillings to members living in the country, nor seven shillings and six pence to those residing in the City of Toronto, and the said Directors shall be indemnified and saved harmless by the members of the said Corporation in proportion to their several interests in the same, in and for their giving out and signing Policies of Insurance, and all other lawful acts, deeds and transactions done and performed in pursuance of this Act; and neither shall the said Directors be answerable for or chargeable with the defaults, neglects or misdeeds of others of them.

Directors to receive compensation for their services.

XIV. And be it enacted, That any person who as Secretary, Deputy Secretary, Clerk or other Officer of the Company shall be guilty of any designed falsehood or fraud in any matter or thing pertaining to his office or duty, shall be guilty of a misdemeanour: and any person offering to vote in person at any election of Directors in said Company who shall falsely personate another, or who shall falsely sign or affix the name of any other person, a member of this Company, to any appointment of a proxy, shall be guilty of a misdemeanour.

Penalty on Officers guilty of fraud, &c.

XV. And be it enacted, That the Corporation hereby created shall have power and authority to make and effect contracts of insurance with any person or persons, body politic or corporate, against loss or damage by fire on any houses, stores or other buildings whatsoever, and on any shipping or vessels whatsoever, wheresoever or whithersoever proceeding, against loss or damage by fire, water or any other risk whatever; and in like manner on any goods, chattels or personal estate whatsoever, whether on shore or afloat, and to make and effect assurance on life or lives or in any manner dependent on life or lives, and to grant annuities for such time or times, and for such premises or consideration, and under such modifications and restrictions as may be bargained or agreed upon or set forth by and between the Company and the person or persons agreeing with them for such insurance, and to cause themselves to be insured against any loss or risk they may have incurred in the course of their business, and generally to do and perform all other necessary matters and things connected with and proper to promote those objects.

Company may effect insurance against loss by fire, &c., on lives, &c., and grant annuities.

No Mutual Insurance to exceed two thirds the value, nor on extra-hazardous property.

XVI. Provided always, and be it enacted, That in all cases of Mutual Insurance, there shall not be insured more than two thirds the value of any building, nor a sum be involved exceeding five hundred pounds on any one risk ; and no Mutual Insurance shall be effected on buildings or other property, situated in blocks or exposed parts of towns or villages ; nor on any kinds of Mills, carpenters' or other shops which by reason of the trade or business followed, are rendered extra hazardous, machinery, breweries, distilleries, tanneries or other property involved in similar or equal hazard.

Policies how to be signed and countersigned.

XVII. And be it enacted, That all policies or contracts of insurance, issued or entered into by the said Company, shall be signed by the President and countersigned by the Secretary, or as otherwise directed by the rules and regulations of the Company, in case of their absence ; and being so signed and countersigned, and under the seal of the said Company, shall be deemed valid and binding upon them according to the tenor and meaning thereof.

What interest the Assured party must have.

XVIII. And be it enacted, That in all cases of Mutual Insurance, the assured shall have title in fee, unincumbered, to the building or buildings insured, and the land covered by the same ; or if the assured shall have a less title therein, or if the premises be incumbered, then the true title of the assured and the incumbrances on the premises shall be expressed therein and in the application therefor, otherwise the Policy of insurance granted thereon shall be void.

Statement to be made by Directors at annual meetings.

XIX. And be it enacted, That at the annual general meeting of the Company, and before the members then assembled, the Board of Directors shall exhibit a full and unreserved statement of the affairs of the Company ; of the funds, property and securities, shewing the amount in real estate, in bonds and mortgages, in notes, and the securities thereof, in public debt or other stock, and the amount of debt due to and from the said Company.

Mode of proceeding when losses occur by fire.

XX. And be it enacted, That in case of any loss or damage by fire, happening to any property insured with the said Company, immediate notice thereof shall be given by the assured to the Secretary of the Company or to the Agent of the Company, should there be one acting for it in the neighbourhood of the place where such fire took place ; and shall as soon after as may be, furnish to such Agent, or otherwise to the Secretary, a full statement of all particulars of the said fire as far as can be ascertained, together with a detailed account of all damage done, which statement and account shall be verified on oath by the parties making the same, if required ; and the Directors upon a view of the same, or in such other way as they may deem proper, shall ascertain and determine the amount of such loss or damage ; and if the party suffering shall not be satisfied with the determination of the Directors, the question shall then be submitted to three desinterested persons as referees, one of whom shall be named by the suffering party and one by the Board, and the two referees so named shall name the third ; and the decision or award of a majority of them shall be binding ; and if the award is not satisfactory, either party may sustain its case in an action at law ; and if upon the trial of such action a greater sum shall be recovered than the amount determined upon by the Directors, the party suffering shall have judgment therefor against the Company, with the interest thereon from the time in which payment for such loss or damage should have been made in the terms of the Policy, had no such question or disagreement arisen, with costs of suit ; but, if no more shall be recovered than

Arbitration in case of difference between the assured and the Company.

the

the amount so previously determined, or a less sum be awarded, then the Plaintiff or Plaintiffs in such suit shall not be entitled to costs against the Defendants, but the Defendants shall be entitled to costs, as in the case of a verdict for them : Provided always, that no execution shall issue against the said Company upon any judgment until the expiration of sixty days from the recovery thereof.

Proviso.

XXI. And be it enacted, That every Mutual Member of the Company shall be and is hereby bound and obliged to pay his or her portion of all losses and expenses happening or accruing in or to the Mutual Branch of the Company, during the continuance of his or her Policy of insurance, and all the right, title, interest and estate at the time of the insurance of the assured of, in or to the building insured, by and with the said Company, to the lands on which the same shall stand and to all other lands thereto adjacent, which shall be mentioned and declared liable to the Policy of assurance, shall stand pledged to the said Company ; and the said Company shall have full power to sell, demise and mortgage the same or any part thereof, to meet the liabilities of the assured for his, her or their proportion of any losses or expenses happening or accruing to the said Company, during the continuance of his, her or their Policy, which sale, demise or mortgage shall be made in such manner as shall be specified in the Policy of the assured.

Mutual Members obliged to pay their portion of losses, &c., happening to Mutual Branch of Company.

XXII. And be it enacted, That the Directors shall, after receiving notice of any loss or damage by fire sustained by any Mutual Member, with account and proof thereof, and ascertaining the same, or after the recovery of any judgment as aforesaid against the Company for such loss or damage, settle and determine the sums to be paid by the several Mutual Members thereof as their respective proportion of such loss, and publish the same in such manner and form as they shall see fit or as by the By-laws shall have been prescribed ; and the sum to be paid by each Mutual Member shall always be in proportion to the original amount of his deposit note or notes, and shall be paid to the Treasurer within thirty days next after the publication of such notice ; and if any Member shall for the space of thirty days after the publication of such notice, neglect or refuse to pay the sum assessed upon him, her or them, or his, her or their proportion of any loss or damage as aforesaid, in such case the Directors may sue for and recover the whole amount of his, her or their deposit note or notes with costs of suit ; and the money thus collected shall remain in the Treasury of the Company, subject to the payment of such loss or expense as shall or may accrue during the continuance of his, her or their Policy, and the balance, if any remaining, shall be returned to the party from whom it was collected on demand, after thirty days from the expiration of the term for which insurance was made : Provided always, that no payment, assessment or instalment shall be called in on the said premium or deposit notes until all savings, profits or funds arising from or on account of payments made or moneys received on account of the Mutual Branch of Insurance of the said Company shall have been first applied to and expended upon the payment of losses or damage previously occurring therein.

Directors to determine sums to be paid by mutual Members when a Mutual Member shall have incurred a loss, &c., by fire.

Proviso : Savings and profits to be first expended.

XXIII. And be it enacted, That if it shall ever happen that the whole amount of deposit notes shall be insufficient to pay the loss occasioned by any one fire or fires, in such case the sufferers insured by the said Company shall receive towards making good their respective losses a proportionate dividend of the whole amount of such deposit notes, according to the sums by them respectively insured ; and any Member upon payment of the whole of his or her deposit note, and surrendering his or her Policy before

Per centage in case amount of deposit notes shall be insufficient to meet loss.

before any subsequent loss or expense has been incurred, shall be discharged from the said Company.

Legal effect of Certificate of Secretary in certain cases.

XXIV. And be it enacted, That whenever any assessment is made on any premium note given to the said Company for any hazard taken by the said Company, or as consideration for any Policy of Insurance issued or to be issued by the said Company, and an action is brought for the recovery of such assessment, the certificate of the Secretary of the Company signed and sworn to by him as such before a Judge of any of Her Majesty's Courts of Law in this Province, or before a Commissioner duly authorized to take affidavits within the jurisdiction of the Court in which such action is brought, and bearing the seal of the said Company, specifying such assessment and the amount due to the said Company on such note by means thereof, shall be taken and received as *prima facie* evidence of the facts therein stated in all Courts and places whatsoever.

Policy to be void on sale, &c. of building insured.

XXV. And be it enacted, That when any house or other building shall be alienated by sale or otherwise, the Policy of Mutual Insurance shall be void and be surrendered to the Directors of the said Company to be cancelled, and upon such surrender, the assured shall be entitled to receive his, her or their deposit note or notes upon payment of his, her or their proportion of all losses and expenses that have occurred prior to such surrender: Provided always, that the grantee or alienee having the Policy assigned to him, her or them, may have the same ratified and confirmed to him, her or them, for his, her or their own proper use and benefit, upon application to the Directors, and with their consent, within thirty days next after such alienation, on giving proper security to the satisfaction of the Directors for such portion of the deposit or premium note as shall remain unpaid; and by such satisfaction and confirmation, the party causing the same shall be entitled to all the rights and privileges, and be subject to all the liabilities to which the original party insured was entitled and subjected under this Act.

Proviso in favour of the alienee.

Provision as to destruction by fire of buildings upon leased lands.

XXVI. And be it enacted, That in case any building or buildings situate upon leased lands and mutually insured by the Company, be destroyed by fire, in such cases the Company may retain the amount of the premium note given for insurance thereof, until the time for which insurance was made shall have expired, and at the expiration thereof the assured shall have the right to demand and receive such part of the said retained sum or sums as has not been expended in leases or assessments.

Five per cent to be paid on each share of Proprietary Stock on subscribing.

Proviso as to instalments.

XXVII. And be it enacted, That five per cent. on each share of the Proprietary Stock shall be paid at the time of subscribing thereto, and the remainder shall be paid in such instalments as the Directors for the time being shall appoint: Provided, that no instalment shall exceed ten per cent. upon the Capital Stock, or be called for or become payable in less than thirty days after public notice shall have been given in one or more of the several newspapers published in every District where Stock may be held to that effect, and if any Shareholder or Shareholders refuse or neglect to pay to the said Directors the instalment due upon any share or shares held by him, her or them at the time required by law so to do, such Shareholder or Shareholders as aforesaid shall forfeit such shares as aforesaid, together with the amount paid thereon and the said share or shares so forfeited, it shall and may be lawful for the said Directors to sell, and the sum arising from such sale, together with the amount previously paid thereon, shall be accounted for and divided in like manner as the other moneys of the Proprietary Branch of this Corporation.

XXVIII. And be it enacted, That in case the said Directors shall think it more expedient, in every case or cases, to enforce the payment of any instalment or instalments of Proprietary Stock in the said Company held by any person or persons, and called in and unpaid, than to forfeit the same, it shall and may be lawful for the said Company to sue for and recover of and from such person or persons such instalment or instalments aforesaid, which shall be so called in and which shall be unpaid at the time or times when the same shall be due or payable, which said instalment shall be sued for and recovered with interest thereon in any action or actions for debt in any Court having jurisdiction in civil cases to the amount; and in any such action whether for the subscriptions already made or hereafter to be made, it shall not be necessary to set forth the special matter in the declaration, but it shall be sufficient to allege that the defendant is the holder of one or more shares (stating the number of shares) in the Stock, and is indebted to the Company in the sum to which the calls in arrear may amount; and in any such action, it shall be sufficient to maintain the same, that the signature of the Defendant to some book or paper by which it shall appear that such defendant subscribed for a share or a certain number of shares of the Stock of the said Company be proved by one witness whether in the employment of or interested in the Company or not, and that the number of calls in arrear have been made.

Directors may sue for amount of instalments instead of forfeiting Stock.

What must be alleged and proved in the suit.

XXIX. And be it enacted, That the Proprietary Stock of the said Company shall be assignable and transferable according to such rules as the Board of Directors shall make and establish, and no Stockholder indebted to the Company shall be permitted to make a transfer or receive a dividend until such debt be paid, or security to be paid, to the satisfaction of the Board of Directors, be given.

Proprietary Stock how transferable.

XXX. And be it enacted, That no transferred share or stock shall entitle the person to whom it is transferred to a vote until the expiration of thirty days after such transfer.

As to votes on transferred Shares.

XXXI. And be it enacted, That if any Insurance on any house or building shall be and subsist in the said Company, and in any other office or form, and by any other person or persons at the same time, the Insurance made in and by this said Company shall be deemed and become void unless such double Insurance subsist with the consent of the Directors, signified by endorsement on the Policy, signed by the President, Secretary, or otherwise, as directed by the By-laws and Regulations of the Company.

Double insurances void unless made by consent of Directors.

XXXII. And be it enacted, That in all actions, suits and prosecutions in which the said Company may be at any time engaged, the Secretary or other officer of the said Company shall be a competent witness notwithstanding any interest he may have therein.

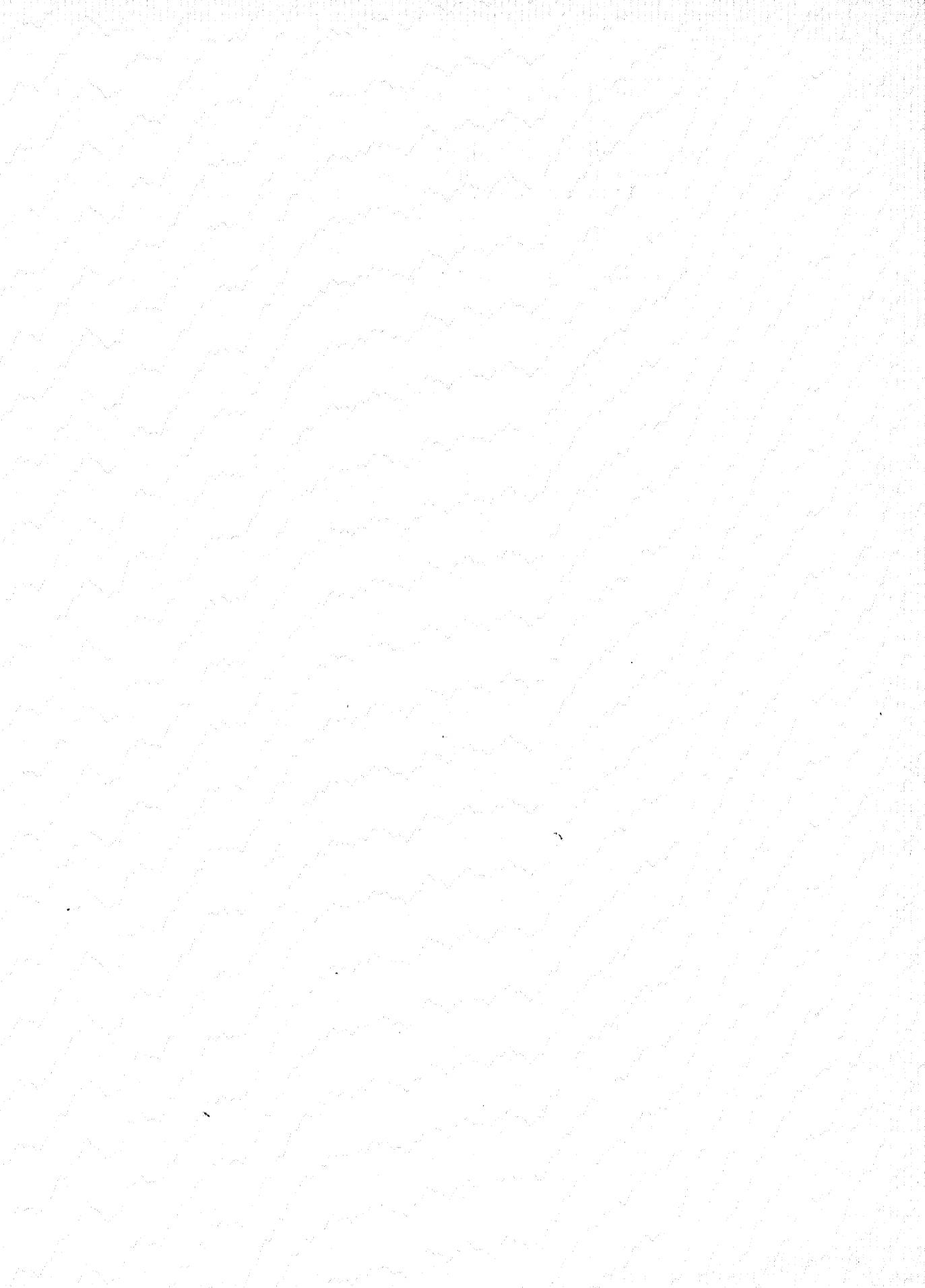
Others to be competent witnesses.

XXXIII. And be it enacted, That this Act shall be deemed a Public Act, and shall extend to all Courts of Law or Equity in this Province, and be judicially taken notice of as such by all Judges, Justices and other persons whatsoever, without the same being specially shewn or pleaded.

Public Act.

XXXIV. And be it enacted, That it shall at all times hereafter be lawful for the Legislature of this Province to repeal, alter or amend this Act.

Power to repeal this Act reserved.





ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CLXVIII.

An Act to incorporate *The Canada Life Assurance Company*.

[25th April, 1849.]

WHEREAS Hugh Cossart Baker, John Young, Sir Allan N. MacNab, James Bell Ewart, Richard O. Duggan, Daniel C. Gunn, John O. Hatt, Archibald Kerr, the Honorable Malcolm Cameron, William P. McLaren, Daniel McNab, Nehemiah Merritt, Miles O'Reilly, James Osborne, Richard P. Street, Edward Cartwright Thomas and George S. Tiffany, of the City of Hamilton, the Honorable Adam Fergusson, of Woodhill, John Wetenhall, of Nelson, and the Honorable George Strange Boulton, of Cobourg, Esquires, the President, Vice-President and Directors of *The Canada Life Assurance Company*, by their humble petition in this behalf, have represented that a number of the citizens of the City of Hamilton, and other residents of Canada, have associated themselves together for the purpose of prosecuting the business of Life Assurance in its various branches, within this Province, under the name of *The Canada Life Assurance Company*, under a certain Deed of Settlement, by which the Capital Stock of the said Association is limited to the sum of fifty thousand pounds of lawful money of Canada, divided into five hundred shares of one hundred pounds each, the whole of which have been subscribed and taken up, and have since the formation of the said Association, on the twenty-first day of August, one thousand eight hundred and forty-seven, accepted risks, and issued Policies of Assurance to a very large amount, and still continue to do so, and have, in accordance with the provisions of the said Deed of Settlement, prayed that for the better enabling them to carry on their said business of Life Assurance, they, together with others, the Stockholders of the said Company, their successors and assigns, may be incorporated under the name of *The Canada Life Assurance Company*; And whereas the sum of two pounds on each share of the Capital Stock of the said Association has been paid up by the said Stockholders; And whereas the practice of Life Assurance has been found in other countries to be of great service in enabling persons of limited capital, to provide from their yearly income for the support of their families in the event of their decease; And whereas, the establishment of a Life Assurance Company in this Province is conducive to the more general diffusion of such a practice, and by means of local investments of its accumulations likely not only to reduce materially the expense of Life Assurance, but generally to encourage prudence, and aid in promoting the prosperity of this Province: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament

Preamble.

of

Certain persons incorporated.

Corporate name and powers.

Proviso as to real estate.

Proviso: Corporation prohibited from acting as 'Traders in goods, &c.

Proviso as to certain real estate.

of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the Honorable Adam Fergusson, John O. Hatt, Daniel McNab, Nehemiah Merritt, George S. Tiffany, Hugh C. Baker, R. O. Duggan, D. C. Gunn, W. P. McLaren, Sir A. N. MacNab, Miles O'Reilly, John Wetenhall, Richard P. Street, John Young, E. C. Thomas, James B. Ewart, Archibald Kerr, James Osborne, the Honorable G. S. Boulton, and the Honorable M. Cameron, and such others as now are or shall under the authority of this Act, be associated with them, and their several and respective heirs, executors, curators, administrators, successors and assigns, and all such other person or persons as shall at any time be possessed of any share or shares in the said undertaking, hereby authorized to be carried on, shall be and are hereby constituted and declared to be a Corporation, Body Corporate and Politic, by and under the name and style of *The Canada Life Assurance Company*, and that by the said name they and their successors shall and may have continued succession, and shall be capable in law of contracting and being contracted with, and of suing and being sued, pleading and being impleaded, answering and being answered unto, in all Courts or places whatsoever, either in law or equity in this Province or elsewhere, and they and their successors shall and may have a Common Seal, and may change, break or alter the same, at their will and pleasure, and may also from time to time, at any General Meeting of the Directors, by a majority of votes as hereinafter provided, ordain, establish and put in execution such By-laws, Ordinances, Rules and Regulations, (the same not being contrary to this Act, or to the laws in force in this Province,) as may appear to them necessary or expedient, for the management of the said Corporation, its business and affairs, and may from time to time alter or repeal the same, or any of them, and shall also be in law capable of acquiring by purchase, lease, mortgage or otherwise, and of holding absolutely or conditionally, any lands, tenements, real or immoveable estate, and the same to sell, alienate, let, release, transfer and dispose of, as to them may seem expedient; Provided always, that nothing herein contained shall be considered as permission to hold any real estate beyond what may be necessary for the said Corporation to hold for its own immediate accommodation in relation to the convenient transaction of its business, or such as shall have been *bonâ fide* mortgaged to it by way of security or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales, upon judgments which shall have been obtained for such debts; and provided also, that it shall not be lawful for the said Corporation to deal or use or employ any part of the stock, funds or money thereof, in buying or selling any goods, wares or merchandizes, or in any banking operations whatsoever, but it shall be lawful, nevertheless, for the said Corporation to purchase and hold for the purpose of investing therein any part of their funds or money, any of the public securities of this Province, the stocks of any of the banks or other chartered companies, and the bonds and debentures of any of the incorporated cities or towns, or municipal districts, and also to sell and transfer the same, and also to make loans upon or purchase bonds, mortgages and other securities, and the same to call in, sell and reloan as occasion may render expedient; And provided further, that the said Corporation shall be bound to sell or dispose of any real estate so purchased or conveyed to them (except such as may be necessary as aforesaid, for the convenient transaction of their business,) within seven years after acquiring the same.

II. And be it enacted, that the Capital Stock of the said Corporation shall, until otherwise determined as hereinafter provided, consist of the sum of fifty thousand pounds, lawful money as aforesaid, divided into five hundred shares of one hundred pounds each, which shares shall be, and the same are hereby vested in the said several persons hereinbefore mentioned, and others the present Shareholders in the said Corporation, their successors and assigns, according to the shares and interests which they may respectively have subscribed, purchased or acquired, and may now hold in the same, and that such part of the said sum of fifty thousand pounds subscribed for, as may not have been paid in by the Shareholders respectively, by whom the same is due, shall be paid by the said Shareholders, by such instalments and at such times and places as the Directors of the said Corporation shall appoint, after notice of not less than two calendar months in that behalf; to be previously given in one or more of the public newspapers published in the City of Hamilton, as well as by circular letters, addressed by mail to every Shareholder, at his last known place of residence, and in case any such Shareholder neglect or refuse to pay the same, the said Company are hereby empowered to sue for and recover the same, with interest after the rate of six per cent per annum, from the time appointed for payment thereof, and all executors, curators and administrators, who shall pay up the instalments due by the estate or succession which they may respectively represent, in obedience to any call made for that purpose in the manner aforesaid, shall be, and they are hereby respectively indemnified.

Amount of
Capital Stock.
Shares.

III. And be it enacted, That the said Corporation shall have power and legal authority to make and effect contracts of assurance, with any person or persons, bodies politic or corporate, upon life or lives, or in any way dependent upon life or lives,— and to grant or sell annuities, either for lives or otherwise, and on survivorships, and to purchase annuities,—to grant endowments for children and other persons,—and to receive investments of money for accumulation,—to purchase contingent rights, whether of reversion, remainder, annuities, life policies or otherwise, and generally to enter into any transaction depending upon the contingency of life, and all other transactions usually entered into by Life Assurance Companies, including re-assurance.

Purposes for
which Corpo-
ration is
created.

IV. And be it enacted, That the business of the said Corporation shall be conducted by a Board of twenty Directors, consisting in the first place of the persons named in the first section of this Act, who shall be held to rank in the following order, namely: The Honorable Adam Fergusson, John O. Hatt, Daniel McNab, Nehemiah Merritt, George S. Tiffany, Hugh C. Baker, Richard O. Duggan, D. C. Gunn, W. P. McLaren, Sir A. N. MacNab, Miles O'Reilly, John Wetenhall, Richard P. Street, John Young, Edward C. Thomas, James B. Ewart, Archibald Kerr, James Osborne, the Honorable G. S. Boulton and the Honorable M. Cameron, and who shall serve as such Directors until the first Tuesday of the month of August, one thousand eight hundred and forty-nine, or until the election hereinafter provided takes place.

First Board of
Directors
appointed.

V. And be it enacted, That a General Meeting of the Stockholders of the said Corporation shall be holden in the City of Hamilton, at the place of business of the said Corporation, on the first Tuesday in the month of August, one thousand eight hundred and forty-nine, and thereafter on the same day in each and every year, and such meetings shall be called "Ordinary Meetings," and that at such meetings the five Directors whose names stand first on the roll or list of Directors shall be held to vacate their

General
Meetings.

Retirement of
Directors.

their seats, and the Stockholders present at such meeting either in person or by proxy shall proceed to elect by ballot five Stockholders to serve as Directors for the ensuing four years, who shall upon election be placed at the bottom of the roll of Directors; Provided always, that nothing herein contained shall be held to render the retiring Directors ineligible for re-election.

Proviso as to re-election.

President and Vice-President.

Proviso.

VI. And be it enacted, That the said Board of Directors shall annually at their first meeting after such annual general meeting, elect by ballot from amongst themselves, a President and Vice-President of the said Corporation: Provided always, that until the first general meeting as aforesaid, Hugh Cossart Baker shall be President, and John Young, Vice-President.

Powers of voting.

Proviso.

VII. And be it enacted, That at the annual general meeting, and at all extraordinary meetings of the said Stockholders of the said Corporation, the Stockholders of the said Corporation shall be entitled to cast one vote for every share he or she may hold; Provided always, that no one Stockholder shall either in person or by proxy cast more than forty votes, and every question shall be decided by the majority of votes present at any such meeting.

Certain decisions to require confirmation.

VIII. And be it enacted, That no determination or resolution at any ordinary meeting, on any matters except such as directed by this Act to be transacted at an ordinary meeting shall be binding upon the Company, unless either the same be confirmed by a subsequent meeting, of which meeting and of which determination or resolution reasonable notice shall be given by the Secretary of the said Corporation, or unless special notice of such extraordinary matter be given in the advertisement concerning such first mentioned ordinary meeting.

Extraordinary Meetings.

IX. And be it enacted, That every meeting of the Stockholders other than an ordinary meeting shall be called an "Extraordinary Meeting," and such meeting may be convened by the Directors at such times and in such places as they may think fit.

Extraordinary Meetings convened by Stockholders.

Proviso.

X. And be it enacted, That if at any time it shall appear expedient to any five of the Board of Directors or to any five or more Stockholders of the said Company holding in the aggregate one fifth part of the Capital Stock of the said Company, to call an extraordinary meeting of the Proprietors at large, it shall be lawful for them by writing under their hands at any time to require the Directors so to do, and such requisition shall fully express the object of the meeting so required to be called, and shall be left at the office of the Company, upon receipt whereof it shall be the duty of the Directors forthwith to convene a meeting of the Stockholders, and if the Directors shall fail to call a meeting within fourteen days thereafter, it shall be lawful for the said number of Directors or the said Stockholders so qualified as aforesaid to call such meeting by giving public notice thereof as hereinafter mentioned: Provided always, that no extraordinary meeting shall enter upon any business not set forth in such requisition and notice.

Notice of meetings.

XI. And be it enacted, That twenty-one days public notice at least of all the meetings, whether ordinary or extraordinary, shall be inserted at least in one newspaper published in the said City of Hamilton, and by mailing at the Hamilton Post Office circulars addressed to the said several Shareholders respectively, which shall specify the

the place, the day and the hour of such meeting, and every notice of an extraordinary meeting shall specify the purpose for which the same is called.

XII. And be it enacted, That in order to constitute a meeting, whether ordinary or extraordinary, there shall be present eight or more Stockholders holding in the aggregate fifty shares, and the Shareholders present at any such meeting shall proceed in the execution of the powers of the Company by this Act authorized.

Quorum for
General
Meetings.

XIII. And be it enacted, That at every meeting of the said Company, one or other of the following persons shall preside as Chairman, that is to say: the President, or in his absence the Vice-President, or in the absence of both, one of the Directors present, who shall be elected by a majority of the Stockholders present, and that such Chairman shall not only have a deliberative vote in all matters before the meeting, but also, in addition, a casting vote in case of equality.

Chairman at
Meetings.

XIV. And be it enacted, That every meeting of the Stockholders may be adjourned from time to time, and no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which such adjournment took place: Provided always, that it shall and may be lawful for the Directors to submit to any meeting, whether ordinary or extraordinary, the *interim* regulations agreed on by the Directors.

Adjourned
Meetings.

Proviso.

XV. And be it enacted, That each and every person or persons entitled to vote at any meetings may by writing under his or their hands (or if such persons be a Corporation, then under their common seal) constitute any other Stockholder, his, her, or their proxy to vote at any such meeting, and every such appointment shall be produced to the Secretary and entered in a book to be kept by him: Provided always, that such authority shall bear date within twelve months of the time of the meeting at which it is produced.

Manner of
voting by
proxy.

Proviso.

XVI. And be it enacted, That if any of the Directors at any time subsequent to his election become bankrupt or insolvent, or cease to be a holder of one share in the capital of the said Company, then and in any of the cases aforesaid the office of such Director shall become vacant, and thenceforth the person in respect of whom the office of Director shall so have become vacant shall cease from voting or acting as a Director.

Cases in
which office of
Directors shall
become vacant.

XVII. And be it enacted, That if any Director of the said Company die, resign or become disqualified or incompetent to act as a Director, or cease to be a Director by any other cause than that of going out of office in rotation as aforesaid, the remaining Directors if they think proper so to do, may elect in his place any stockholder duly qualified to be a Director, and the stockholder so elected to fill up any such vacancy shall continue in office until the first yearly meeting after such vacancy, and the stockholders then present shall elect a new Director, who shall hold office for the same period as the Director would have done whose death, resignation or disqualification caused the vacancy.

Occasional
vacancies
among Direc-
tors how
supplied.

XVIII. And with respect to the exercise of the powers of the Company—Be it enacted, That the Directors shall have the management and superintendence of the affairs of the Company, and they may lawfully exercise all the powers of the Company, and

Powers of the
Directors.

and amongst other powers to be exercised by the Directors they may use and affix or caused to be used and affixed the seal of the Company to any document or paper which in their judgment may require the same ; they may fix the salaries of all officers ; they may make and enforce the calls upon the shares of the respective stockholders ; they may declare the forfeiture of all shares on which such calls are not duly paid ; they may appoint the times and places of holding ordinary and extraordinary meetings ; they may allot and divide among the assurers upon the participation scale, so much of the profits realized from that branch, and at such times as they may think fit, and may also declare and cause to be paid or distributed to the respective stockholders any dividend or dividends of profits, in proportion to the shares held by them at such times and seasons as they shall think proper, or add the same to the paid up portion of the capital stock ; they may make any payments and enter into all contracts for the execution of the purposes of the Company, and do and perform all other matters and things necessary for the transaction of its affairs ; they may generally deal with, treat, sell and dispose of and exercise all other acts of ownership over the lands, property and effects of the said Company for the time being in such manner as they shall deem expedient and conducive to the benefit of the Company ; they may from time to time appoint and displace all such officers, agents or servants as they shall deem requisite for the management and care of the property and affairs or for the efficient exercise of the powers of the said Company ; they may make By-laws for the regulation of the affairs of the Company, but all the powers so to be exercised shall be exercised in accordance with and subject to the provisions of this Act in that behalf, and the exercise of all such powers shall be subject also to the control and regulation of any general meeting specially convened for the purpose, but not so as to render invalid any act done by the Directors prior to any resolution passed by such general meeting.

President or
Vice-President
and
Secretary to
execute Policies,
&c.

XIX. And be it enacted, That all policies, contracts, securities, deeds and writings touching or concerning the said Company shall be signed and executed by the President of the said Company (or in his absence by the Vice-President) and the Secretary, or in case of the absence or death of both the President and Vice-President, by any three of the Directors of the said Company and the Secretary.

Meetings of
Directors.

XX. And be it enacted, That the Directors shall hold meetings at such times and places as they shall appoint for that purpose, and they may meet and adjourn as they think proper from time to time and from place to place, and at any time three of the Directors may require the Secretary to call a meeting of the Directors, and in order to constitute such meeting there shall be present at least three of the Directors, and all questions, matters and things considered at any such meeting shall be determined by a majority of votes, and no Director except the Chairman shall have more than one vote at such meeting, but the Chairman in addition to his vote as one of the Directors shall have a casting vote as Chairman in case of equality, and that at any such meeting or meetings the President or Vice-President or in their absence the Director appointed by a majority of Directors present, shall preside.

Casting vote.

Informality in
appointment
not to invalidate
proceedings.

XXI. And be it enacted, That all acts done by any meeting of the Directors or by any person acting as a Director shall, notwithstanding it may afterwards be discovered that there was some defect or error in the appointment of any person attending such meeting as a Director or acting as aforesaid, or that such person was disqualified, be as valid as if any such person had been duly appointed and was qualified to be a Director.

XXII. And be it enacted, That the shares of the said capital stock shall be transferable, and may be from time to time transferred by the respective persons so subscribing or holding the same; Provided always, that no such transfer shall be valid until sanctioned and approved of by the Directors and duly registered in a book or books to be kept for that purpose by the Secretary; And provided also, that after any call has been duly made as aforesaid, no person shall be entitled to sell or transfer any share he may possess until he shall have paid all calls for the time being due on any share held by him.

Shares to be transferable.

Proviso.

Proviso.

XXIII. And be it enacted, That it shall and may be lawful for the said Company at any time hereafter, to increase its capital stock, to a sum not exceeding two hundred and fifty thousand pounds, in such a manner as a majority of the stockholders, at a meeting to be expressly convened for that purpose, shall agree upon.

Power to increase Capital Stock.

XXIV. And be it enacted, That for the better enforcing the payment of any calls as aforesaid, if any stockholder for the space of thirty days next ensuing such call shall neglect or refuse to pay his rateable share, he shall forfeit the sum of twenty shillings for each share, and in case he shall continue to refuse or neglect for the space of sixty days, it shall be lawful for the Directors to declare the share or shares of such stockholder forfeited, and such forfeited shares may be sold at a public sale by the Directors, after such notice as they may direct, for the most money that can be got for the same, and the moneys arising therefrom shall be applied for the purposes of this Act: Provided always, that in case the money produced by any sale of shares be more than sufficient to pay all arrears and lawful interest thereon, and the aforesaid penalties for non-payment, together with the expenses of such sale, the surplus of such money shall be paid on demand, to the owner, and no more shares of a defaulter shall be sold than what shall be deemed necessary to pay such arrears, interest, penalties and expenses.

Forfeiture of Shares for non-payment of calls.

Proviso.

XXV. And be it enacted, That if payment of such arrears of calls, interest, penalties and expenses be made before any share so forfeited and vested in the Company, shall have been sold, such share shall revert to the party to whom the same belonged before such forfeiture, in such manner as if such calls had been duly paid.

Shares to revert in certain cases.

XXVI. And be it enacted, That in all actions or suits for the recovery of such arrears or calls, it shall be sufficient for the Company to allege that the defendant being an owner of such shares, is indebted to the said Company in such sums of money as the calls in arrear amount to, for such and so many shares, whereby an action hath accrued to the said Company by virtue of this Act, and on the trial it shall be only necessary to prove that the defendant was owner of some shares in the undertaking, and that such calls were in fact made, and that notice was given as directed by this Act, and that it shall not be necessary to prove the appointment of the Directors who made such calls, nor any other matter whatsoever.

Right to sue for calls.

Allegations and proof.

XXVII. And be it enacted, That before any person claiming any part of the profits of the said undertaking in right of marriage, shall be entitled to receive the same or to vote in respect of any shares, an affidavit containing a copy of the register of such marriage shall be made and sworn to by some credible person, before any one of Her Majesty's Justices of the Peace or before the Mayor or Chief Magistrate of any city, borough

As to shares of Profits claimed in right of Marriage, &c.

Proof required.

borough or town corporate, in any foreign country, and shall be transmitted to the Secretary of the said Company, who shall file the same, and make an entry thereof in a book kept for the entry of the transfer of the shares as aforesaid, and before any person claiming by virtue of any bequest or will, or in the course of administration, shall be entitled to any part of such profits or to vote as aforesaid, the said will or the the probate thereof, or the letters of administration shall be produced and shewn to the said Secretary, or a copy of so much of the said will as relates to the said shares shall be sworn to, and shall also be transmitted to the said Secretary, who shall file and enter the same as before mentioned, and in all cases where the right to any such shares passes from the proprietor by any legal means, other than a transfer and assignment thereof as aforesaid, an affidavit shall be made and sworn to, stating the manner in which such share has passed to such other person, and the same shall be transmitted to the Secretary, who shall thereupon enter and register the name of such new proprietor, and the production of such register shall be *prima facie* evidence in all courts of law and equity of the persons whose names shall appear therein being such shareholder, and of the number and amount of his shares.

Yearly statement to be submitted by Directors.

XXVIII. And be it enacted, That the Directors shall cause to be yearly prepared and submitted to the stockholders at the ordinary meeting a full and correct statement of the accounts of the said Company; the receipts and expenditure of the past year; the number of the Policies issued; the amount covered by Policies in force; the yearly amount of annuities payable by the Company; together with a general abstract of the estimated liabilities and assets of the Company, a copy of which statement, under the hand of the President or Vice-President and countersigned by the Secretary, shall be transmitted to every shareholder and to the several branches of the Legislature.

Interest may be taken in advance.

XXIX. And be it enacted, That the said Company may and are hereby empowered to demand and receive in advance from the Government of this Province or from any District Council, Board of Trustees or Commissioners, or other person or persons the half yearly interest from time to time accruing on any loans granted by the said Company under and by virtue of the powers given them by this Act; any law or statute of this Province or the late Province of Upper Canada notwithstanding.

Names of Stockholders may be taken.

XXX. And be it enacted, That it shall be the duty of the Directors of the said Company to allow during the hours of business the names of the stockholders and the numbers of their shares in the said Company, to be taken by any stockholder who may require the same.

This Act to supersede Deed of Settlement.

XXXI. And be it enacted, That from and after the passing of this Act the powers, duties and authority of the Directors and Trustees under the said Articles of Agreement shall cease and determine, and that all property, real or personal, standing in the name or names of the said Trustees, or to which they are in any wise entitled in trust for the said Company, shall vest in and belong to the said Company and their Successors, and that the several parties who have accepted Policies or entered into any contract or agreement with the said Directors or Trustees shall be taken to have accepted and entered into the same under the provisions of this Act, and shall look to the funds of the said Company for liquidation thereof; Provided always, that nothing herein contained shall be construed to avoid or annul any Policy, deed or other instrument made or executed at any time heretofore.

Proviso.

XXXII.

XXXII. And be it enacted, That in all actions, suits and prosecutions in which the said Company may be at any time engaged, the Secretary or other officer of the said Company shall be a competent witness notwithstanding any interest he may have therein. Officers of the Company may be witnesses, &c.

XXXIII. And be it enacted, That in this Act the following words and expressions shall have the several meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction, that is to say : words importing the plural number shall include the singular number ; words importing the masculine gender shall include females ; the word Secretary shall include the word Clerk ; the word lands shall extend to messuages, lands, tenements and hereditaments of any tenure ; the expression "the Company" shall mean "The Canada Life Assurance Company," in this Act mentioned and described ; the expressions "The Directors" and "The Secretary," shall mean the Directors and Secretary respectively for the time being. Interpretation Clause.

XXXIV. And be it enacted, That this Act shall be a Public Act, and shall be judicially taken notice of as such. Public Act.

MONTREAL : Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.





ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CLXIX.

An Act to amend the Act to incorporate the Gore Bank, and to increase the Capital Stock of the said Bank.

[25th April, 1849.]

WHEREAS the President, Directors and Company of the Gore Bank, have by their Petition prayed that the value of each share in the Capital Stock of the said Bank be reduced from twelve pounds ten shillings to ten pounds each, in consequence of losses sustained by the said Bank, through their Agent in London, in England, which losses have reduced the value of the shares to that extent; and have also prayed that they may have power to increase the number of shares in the said Stock from eight thousand to twenty thousand, to be each of the said value of ten pounds, in such manner and at such times, and in such portions as the majority of the Directors for the time being may from time to time direct, and it is expedient to grant the prayer of their said Petition, subject to the limitations hereinafter made: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That for and notwithstanding any thing contained in the Act of the Legislature of the Province of Upper Canada, passed in the fifth year of the Reign of His late Majesty, King William the Fourth, intituled, *An Act to incorporate sundry persons under the style and title of The President, Directors and Company of the Gore Bank*, each share in the Capital Stock of the said Bank, shall, from and after the passing of this Act, be held to represent and be equal to ten pounds of the said Stock, and not twelve pounds ten shillings as heretofore, and that the whole amount of the present Stock of the said Bank, including all the present estate and property thereof, shall be held to be eighty thousand pounds, and not one hundred thousand pounds as heretofore.

Preamble.

Shares in the Stock of the Bank to be £10 each, notwithstanding any thing in U. C. 5 W. 4 c. 46.

II. And be it enacted, That for and notwithstanding any thing contained herein, or in the said recited Act, it shall and may be lawful for a majority of the whole number of Directors of the said Bank, by a By-law or By-laws to be from time to time passed by such majority of Directors, to increase the number of shares in the Capital Stock of the said Bank from the present number of eight thousand to any number not exceeding twenty thousand, such additional shares to be each of the value of ten pounds; Provided always, that such By-law or By-laws shall specify the number of such additional shares

Capital Stock may be increased.

Proviso.

which

which are to be then added to the said Capital Stock, and the time, place, manner and other conditions to be observed in the opening of books of subscription for the same; And provided also, that no such additional shares shall be issued at less than the par value of ten pounds, and that such By-law or By-laws be published at least three times in one newspaper (if there be one) in the Gore, Home, Wellington, Brock and Talbot Districts respectively, the first publication thereof being at least ninety days before such By-law or By-laws shall take effect.

Proviso.

Not less than 1000 shares to be offered at one time: to be paid up within a certain time.

III. And be it enacted, That it shall not be lawful for the said Directors to offer a less quantity at any one time of such additional shares for subscription or sale as afore-said, than one thousand shares; and that every such additional share shall be subscribed for within eighteen months from the passing of this Act, or within such extended period not exceeding five years from the passing of this Act as the Governor General in Council may permit; and that every such share subscribed for shall be paid up in full within two years from the passing of this Act, or within such extended period not exceeding eight years from the passing of this Act as the Governor General in Council may permit.

When holders of new Shares may vote.

IV. And be it enacted, That no holder of any such additional or new share or shares shall be entitled to vote in respect of the same until three months after he shall have paid up the same in full.

To what profits new Shareholders shall be entitled.

V. And be it enacted, That the subscribers or purchasers of any of such new stock or shares shall be entitled to a share of the profits of the said Bank, in proportion to the sum actually paid in upon each and every share subscribed for or purchased by them, from the period at which they shall have so paid in the same.

Other rights of new Shareholders.

VI. And be it enacted, That except as hereinbefore provided, every person subscribing for or taking any share or shares in the said additional Capital Stock, shall have the same rights and be subject to the same liabilities as the original Subscribers and Shareholders in the said Bank.

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Law Printer to the Queen's Most Excellent Majesty.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CLXX.

An Act further to extend the time for paying up the new Stock of the Commercial Bank of the Midland District.

[25th April, 1849.]

WHEREAS the President, Directors and Company, of the Commercial Bank of the Midland District, have, by petition to the Legislature, prayed for a further extension of the time within which their new shares of Capital Stock must be wholly paid up; And whereas it is expedient to grant the prayer of the said petition: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the term in and by the Act of the Parliament of this Province, passed in the ninth year of Her Majesty's Reign, intituled, *An Act to amend an Act, intituled, 'An Act to extend the Charter of the Commercial Bank of the Midland District, and to increase its Capital Stock,'* limited for wholly paying up the increase of twelve thousand shares of Capital Stock provided by the second section of the Act of the Parliament of this Province, passed in the sixth year of Her Majesty's Reign, intituled, *An Act to extend the Charter of the Commercial Bank of the Midland District, and to increase its Capital Stock*, shall be and the same is hereby extended to the first day of January, in the year one thousand eight hundred and fifty-two, or such later period as the Governor General in Council may permit.

Preamble.

Time for paying up new Stock extended.

Corporate name changed.

II. And be it enacted, That for and notwithstanding any thing in the said Acts or in any other Act or Law, the Corporation therein mentioned and heretofore known as the President, Directors and Company of the Commercial Bank of the Midland District, shall, from and after the passing of this Act, be called and known by the Corporate name of *The Commercial Bank of the Midland District*, but such change of name shall not be construed to make the said Corporation a new Corporation, or in any way whatever to affect any right or liability of the said Corporation, or any action, suit or proceeding pending at the time of the passing of this Act.





ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CLXXI.

An Act to enable William Bradley to hold a certain Road Allowance in Caledonia, in the Ottawa District.

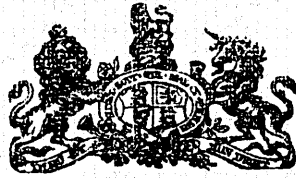
[25th April, 1849.]

WHEREAS the Road Allowance between lots numbers eighteen and nineteen, in the Fifth Concession of the Township of Caledonia, in the Ottawa District, runs through a piece of swampy wet ground, covered in some places with ponds, and is thereby rendered unfit for a Public Highway; And whereas William Bradley, of the said Township of Caledonia, owns the lands on each side of the said Allowance, and has given a Road of equal width with the original Allowance, and running parallel thereto through the centre of lot number eighteen in the Fifth Concession of the said Township; And whereas it is expedient to grant to the said William Bradley the said original Allowance in lieu of the Road so given: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same; That the Road so given by the said William Bradley, and now travelled as a Public Highway, shall be and remain a Public Highway; and that the said original Road Allowance be, and the same is hereby vested in the said William Bradley, his heirs and assigns for ever, in lieu of the Road so given.

Preamble.

The said Road allowance vested in W. Bradley.

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ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CLXXII.

An Act to vest a certain Road Allowance in the Township of Nelson, in
John S. McCollom.

[25th April, 1849.]

WHEREAS John S. McCollom owns Lot number twenty in the first concession south of Dundas Street, in the Township of Nelson; And whereas the road allowance between that lot and lot number twenty-one in the same concession was never opened, in consequence of the public being accommodated by a road running parallel therewith across the said lot number twenty, whereby the road last mentioned has become a common highway, and the said road allowance is wholly useless to the public: And whereas the said road allowance has been for many years past in the possession of the father of the said John S. McCollom, and is now in the possession of the said John S. McCollom, and the greater part of it under actual cultivation in lieu of the said road so running through the said lot number twenty, as appears by the memorial of the said John S. McCollom and others, residing in the vicinity of the said lot; And whereas it is but just that the said road allowance should be vested in the said John S. McCollom: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the said road allowance between the said lots numbers twenty and twenty-one, in the first concession south of Dundas Street, in the Township of Nelson, in the Gore District, be and the same is hereby vested in the said John S. McCollom, his heirs and assigns for ever, according to the said memorial, in lieu and stead of the said road so running through the said lot number twenty, which to the width of sixty-six feet is hereby declared to be and shall be and remain a Public Highway, as if the same had been originally reserved for that purpose.

Preamble.

The said Road allowance vested in J. S. McCollom.

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ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CLXXIII.

An Act for the relief of Joseph Richard Thompson, and Henry Jessup.

[25th April, 1849.]

WHEREAS by an Act of the Legislature of Upper Canada, passed in the second year of the Reign of His Majesty King George the Fourth, and intituled: *An Act to repeal part of and amend an Act passed in the thirty-seventh year of His late Majesty's Reign, intituled: 'An Act for the better regulating the practice of the Law,' and to extend the provisions of the same,* it is among other things enacted, that from and after the passing of the said Act, no person shall be admitted by the Court of King's Bench to practise as an Attorney, unless upon an actual service under articles for five years, with some practising Attorney; And whereas it appears by the Petition of Joseph Richard Thompson, of the Township of Brock, in the Home District, Gentleman, and by certificate and documents produced in support thereof, and also by the Petition of Henry Jessup, of the Township of York, in the said Home District, that the Petitioners are duly admitted Attorneys of Her Majesty's Courts of Queen's Bench and Common Pleas in England, and also Solicitors in the High Court of Chancery; And whereas it also appears that the said Joseph Richard Thompson came into this Province, in the hope of being allowed to practise his profession; And whereas the said Henry Jessup has for many years practised as a Solicitor in the Court of Chancery, in this Province; And whereas the said Petitioners are desirous of practising in the Courts of Law and Equity, in this Province, and it is expedient to relieve them from the disability imposed by the said Act: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada,* and it is hereby enacted by the authority of the same, That it shall and may be lawful for the Court of Queen's Bench in Upper Canada, in its discretion, to admit the said Joseph Richard Thompson, and the said Henry Jessup, to practise as Attorneys of that Court; and that it shall also be lawful for the Court of Chancery, in Upper Canada aforesaid, in its discretion, to admit the said Joseph Richard Thompson, to practise as a Solicitor in the said Court of Chancery; any law or usage to the contrary notwithstanding.

Preamble.

Act of U. C.
2 George IV.
(2 Session),
c. 5, cited.

The said
Thompson and
Jessup to be
admitted to
practise in
U. C.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CLXXIV.

An Act to enable George Carruthers and others to carry into effect the Will of the late Doctor Richard Noble Starr.

[30th May, 1849.]

WHEREAS Richard Noble Starr, late of the Township of Carradoc, in the District of London, Surgeon, deceased, in and by his last will and testament, bearing date the fourth day of August, in the year of our Lord, one thousand eight hundred and forty-three, after bequeathing certain real and personal property to certain persons therein named, did devise to and constitute George Carruthers, H. Hogg, and William Hatelic, his executors, certain other personal property therein mentioned, with directions to sell the same to invest the proceeds in Government Debentures, and of the interest thereof to apply one half to the said Township of Carradoc, and the other half to the Township of Ekfrid, for the purpose of forming a Public Library, to be placed under a Committee in each, and for the benefit of each of the aforesaid Townships respectively, on condition that each of said Townships should build a house for the reception of the Books contemplated by the said Will; And whereas the Inhabitants of each of the said Townships of Carradoc and Ekfrid, at their own costs and charges have erected a suitable and convenient building in their said respective Townships, for the purposes of the said Library; And whereas the said Executors have sold the personal property mentioned in the said Will, and invested the proceeds thereof in Bank Stock, on which dividends have accrued and are accruing, wherewith additional Books to the said Libraries may be from time to time procured; And whereas it is desirable to give effect to the said Will, and carry out the praiseworthy intentions of the said Testator: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall and may be lawful for the Inhabitants of the said Townships of Carradoc and Ekfrid respectively, whose names are on the then last Assessment Rolls for the said Townships, on the first Monday in the month of June next, and in every succeeding year, to assemble together and elect five of such inhabitants of each of the said Townships respectively, who shall form and constitute a Committee for the purposes aforesaid, (who shall elect one of themselves to be Chairman of the Committee,) who shall continue in office for one year, but who nevertheless may be re-elected.

Preamble.

Inhabitants of Ekfrid and Carradoc to elect a Committee.

Committees to
be Bodies
Corporate:
their names
and powers.

II. And be it enacted, That each of the said Committees of the said Townships of Carradoc and Ekfrid, shall be a body corporate, under the name of *The Carradoc (or Ekfrid) Starr Library Society*, as the case may be, capable of suing and being sued, and shall have a Common Seal, and other the usual powers and rights of bodies corporate, not inconsistent with the laws of this Province, and shall and may have power and authority to purchase, accept and hold lands in the said Townships of Carradoc and Ekfrid respectively, not exceeding five acres for them and their successors in office for the purposes of the said Library; And further, that it shall be lawful for the said George Carruthers, H. Hogg, and William Hatelie, or any of them to transfer, assign, convey and set over, or cause to be transferred, assigned, conveyed, and set over unto the said bodies corporate respectively, all Moneys, Bank Stock, Government Debentures, Lands, Tenements, or other real or personal property whatever in their possession, custody, control or management, or which may have come to their hands as executors of the said late Richard Noble Starr, and for the purposes of the said Library, according to the terms, intent and meaning of the said devise.

Executors may
convey pro-
perty to the
Committees.

III. And be it enacted, That the failure to hold the first General Meeting of the inhabitants of the said Townships respectively, or any other meeting thereof, to elect such Committee as aforesaid, shall not dissolve the Corporation, but such failure or omission may be supplied by and at any special meeting to be called on the written requisition of any twelve inhabitants of the said Township, of which public notice shall be given in conformity with such By-laws as the Corporation may see fit to adopt, and until such election of a new Committee, that which may be in office for the time being, shall be and continue in office and exercise all the rights and powers thereof, until such new election be made as hereinbefore provided.

Provision
against failure
to elect Com-
mittees.

IV. And be it enacted, That the said Corporations respectively shall have power to make and frame By-laws for the government, management and control of their said Libraries, and rules and regulations for conducting the business thereof, in all its particulars and details, and also at any time to alter, change, modify and repeal the same, or any of them.

Committees to
make By-laws.

V. And be it enacted, That this Act shall be a Public Act.

Public Act.

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Law Printer to the Queen's Most Excellent Majesty.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CLXXV.

ELGIN AND KINCARDINE.

An Act for the reversal of the attainder of Oliver Grace, and for other purposes therein mentioned.

[30th May, 1849.]

THE Queen's Most Excellent Majesty having been graciously pleased in the exercise of Her most excellent Prerogative of mercy to grant to Oliver Grace, late of Ancaster, in the County of Wentworth, in Upper Canada, Gentleman, Her Royal Pardon in certain Treasons by him committed during the late war with the United States of America, of which the said Oliver Grace stands attainted; and having moreover through His Excellency the Right Honorable James Earl of Elgin and Kincardine, Her Majesty's Governor General of this Province, signified to both Houses of Parliament Her Royal pleasure that the said attainder of the said Oliver Grace may be reversed, all corruption of blood consequent thereupon be taken away, and such of his estates as have not been forfeited and disposed of under the authority of a certain Act of the Parliament of Upper Canada, passed in the fifty-ninth year of the Reign of Her Majesty's Royal Grandfather King George the Third, intituled, *An Act for vesting in Commissioners the estates of certain Traitors, and also the estates of persons declared aliens, by an Act passed in the fifty-fourth year of His Majesty's Reign, intituled, An Act to declare certain persons therein described aliens, and to vest their estates in His Majesty and for applying the proceeds thereof towards compensating the losses which Her Majesty's subjects have sustained in consequence of the late war, and for ascertaining and satisfying the lawful debts and claims thereupon, or in any other manner under the authority of the Crown;* To the end therefore that such Her Majesty's benevolent intentions may be carried into effect in the most ample and beneficial manner for the behoof of the said Oliver Grace: Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada,* and it is hereby enacted by the authority of the same, That the said attainder shall be and the same is hereby reversed, and the corruption of blood and forfeiture wrought by such attainder taken away and avoided to all intents and purposes whatsoever.

Preamble.

Act of U. C.
59 G. 3, c. 12,
cited.

Attainder
reversed.

II. And be it enacted, That all and singular the estates, property and effects which immediately before such attainder were of or belonging to the said Oliver Grace and have not since then been disposed of by him, shall be and are hereby vested in the said

Estates and
property of O.
Grace vested
in him.

Oliver

Oliver Grace in the same manner and with the same effect to all intents and purposes, and with the same and no other consequences or effects as to the rights of third parties in, upon or with regard to the same as if the said Oliver Grace had not been so attainted; Provided always, nevertheless, that nothing herein contained shall extend or be construed to extend to or affect any goods or chattels, lands or tenements actually sold or conveyed by the said Commissioners of forfeited estates under the said Act, or otherwise, or by any Public Officer or Minister of Justice acting on behalf of the Crown in that behalf, but all such goods and chattels, lands and tenements, shall belong to the same parties and be dealt with in all respects as if this Act had not been passed.

Proviso: exception as to property sold, &c. under 59 G. 3 c. 12.

Recital.

Permission of the Governor may be required to enable O. Grace to recover his estates in certain cases.

Proviso: Governor may accompany his permission with conditions.

Proviso: permission not requisite in certain cases.

How this Act shall be construed.

III. And whereas it may be that certain parties have entered either wrongfully or otherwise into the possession of certain of the estates of the said Oliver Grace not so forfeited and disposed of, but whose cases as between the Crown and such parties could not be dealt with on strict legal or equitable grounds alone, and it is therefore Her Majesty's Royal pleasure that power be reserved to Her Majesty's Governor General of this Province for the time being to deal with such cases in such manner as may appear reasonable and just in the exercise of a sound and liberal discretion—Be it therefore enacted, that in the event of the said Oliver Grace, his heirs or assigns being compelled to seek the recovery of any such last mentioned lands or tenements by proceedings in any Court of Law or equity, it shall and may be lawful for the party against whom he shall be so proceeding to apply to the Court in which such proceedings shall be pending to stay all such proceedings till Her Majesty's pleasure shall be taken whether the said Oliver Grace, his heirs or assigns, shall be at liberty to proceed for the recovery of such lands or tenements or any part thereof, and such Court upon such party establishing by affidavit or otherwise to their satisfaction that he is entitled to the benefit of this provision, shall order such proceedings to be staid till by an Order of the Governor General of this Province for the time being it shall be declared that the said Oliver Grace, his heirs or assigns may be at liberty to proceed for the recovery of such property whereupon such proceedings shall be staid accordingly until His Excellency the Governor General shall, through the Provincial Secretary, declare it to be Her Majesty's pleasure that the said Oliver Grace be permitted to proceed for the recovery of such property, whereupon every such Court shall order such proceedings to be continued as if the order to stay the same had not been made; Provided always, nevertheless, firstly, that it shall and may be lawful for the Governor General in the instrument granting permission to the said Oliver Grace, his heirs or assigns, to proceed for the recovery of such property to impose any and such conditions upon the said Oliver Grace, his heirs or assigns, as in his discretion he may think fit, and the Court in which such proceedings shall be pending shall enforce the performance of such condition before allowing such proceedings to be continued; And provided also, secondly, that nothing in this section contained shall extend or be construed to extend to any proceedings that the said Oliver Grace, his heirs or assigns, shall or may be driven to adopt after having once obtained by due process of law or otherwise the quiet and peaceable possession of any of such lands or tenements.

IV. And be it enacted, That this Act and the pardon herein referred to shall be construed and taken in the most large and beneficial sense and manner in favor of the said Oliver Grace his heirs executors, administrators and assigns.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CLXXVI.

An Act to amend an Act incorporating the Saint Lawrence and Atlantic Rail-Road Company.

[30th May, 1849.]

WHEREAS the Saint Lawrence and Atlantic Rail-road Company have prayed for the amendment of their Act of Incorporation, to the end that they may be facilitated in their dealings respecting the said Rail-road, and it is expedient to grant their prayer: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall be competent to the Directors of the Company incorporated by an Act of the Parliament of this Province passed in the eighth year of Her Majesty's Reign, intituled, *An Act to incorporate the Saint Lawrence and Atlantic Rail-road Company*, to establish, and from time to time to raise or diminish the rates, tolls and dues which, by the said Act, and the several Acts amending the same, the said Company are authorized to demand and take; any thing in the said Act or Acts to the contrary notwithstanding: Provided always, that the *maximum* of the rates, tolls and dues established by the said Act or Acts shall not, at any time, be exceeded.

Preamble.

The Company to regulate their tolls from time to time, but not to exceed the *maximum* provided by law.

II. And whereas doubts have been entertained as to the power of the said Company to become a party to Promissory Notes or Bills of Exchange—Be it therefore declared and enacted, That the said Company have, and shall continue to have power to become parties to Promissory Notes and Bills of Exchange, and any Promissory Note made or endorsed, and any Bill of Exchange drawn, accepted or endorsed by the President of the Company and countersigned by the Secretary and Treasurer, and under the authority of a majority of a *quorum* of the Directors is and shall be binding upon the Company, and every Promissory Note or Bill of Exchange made, drawn, accepted or endorsed by the President of the said Company and countersigned by the Secretary and Treasurer as such either before or after the passing of this Act, shall be presumed to have been properly made, drawn, accepted or endorsed, as the case may be, for the Company, until the contrary be shewn; and in no case shall it be necessary to have the Seal of the Company affixed to any such Bill of Exchange or Promissory Note, nor shall the President or the Secretary and Treasurer of the Company so making, drawing, accepting or endorsing any such Promissory Note or Bill of Exchange be thereby subjected

The Company may be a party to Notes and Bills, and in what manner.

Seal not to be requisite.

Proviso: Notes not to be payable to bearer, &c.

subjected individually to any liability whatever; Provided always, that nothing in this clause shall be construed to authorize the said Company to issue any note payable to bearer or any Promissory Note intended to be circulated as money or as the notes of a Bank.

The Company bound to perform certain services for the Government in the carriage of the Mails, Troops, Police Force, &c.

III. Provided always, and be it enacted, That the said Company shall at all times when thereunto required by Her Majesty's Deputy Post Master General, the Commander of the Forces, or any person having the superintendence or command of any Police Force, and with the whole resources of the Company if required, carry Her Majesty's Mail, Her Majesty's Naval or Military Forces or Militia, and all Artillery, ammunition, provisions or other Stores for their use, and all Policemen, Constables, and others travelling on Her Majesty's Service, on their said Rail-road, on such terms and conditions and under such Regulations as the said Company and the Deputy Post Master General, the Commander of the Forces, or person in command of any Police Force, respectively, shall agree upon; or if they cannot agree, then on such terms and conditions, and under such Regulations as the Governor or person administering the Government shall in Council make, and the Company may be required to provide a separate carriage for the Mail and the person or persons in charge thereof, and the said Company shall at any time when hereunto required by the Governor of this Province or any person thereunto authorized by him, place any Electric Telegraph and the apparatus and operators they may have, at the exclusive use of the Government, receiving thereafter reasonable compensation for such service: And provided also, that any further enactments which the Legislature of this Province may hereafter deem it expedient to make, with regard to the carriage of the said Mail or Her Majesty's Forces and other persons and articles as aforesaid, or the rates to be paid for carrying the same, or in any way respecting the use of any Electric Telegraph or other service to be rendered by the Company to the Government, shall not be deemed an infringement of the privileges intended to be conferred by this Act.

Further enactments may be made on this subject.

Part of the Act above recited, repealed.

Stock to be divided into shares of £25 each, instead of £50.

As to votes.

IV. And be it enacted, That so much of the aforesaid Act of Incorporation of the said Company passed in the eighth year of Her Majesty's Reign, as divides and relates to the division of the Capital Stock of the said Company into shares of fifty pounds currency, each, shall be and the same is hereby repealed; and that in lieu thereof, the Capital Stock of the said Company shall be and the same is hereby divided into shares of twenty-five pounds currency, each, and each of the said shares shall entitle the holder thereof, at all meetings of the Shareholders, to one vote, but no holder of more than three hundred shares shall be entitled to more than three hundred votes; any thing in the twenty-third section, or in any other section of the said Act of Incorporation, or in any of the several Acts amending the same, to the contrary notwithstanding.

Shares may be distinguished into "Old Stock," and "New and Preferential Stock."

V. And be it enacted, That it shall and may be lawful for the said Company at any Special General Meeting of the Shareholders thereof convoked by public notice to that effect published as by the Act hereby amended directed to be published, for the space of six weeks previous to the day fixed for such Special Meeting, to declare that the shares, or any given number of the shares of the Capital Stock of the Company remaining unsubscribed for, shall, on being subscribed for, entitle the holders to the preference in the division of profits hereinafter provided; and thereupon the shares to be newly subscribed for, and entitled to such preference, shall be distinguished as shares of *The New and Preferential Stock*, of the Company; and the Directors of the
Company

Company shall and may thereafter from time to time, and wheresoever, in this Province, or elsewhere, and under such regulations as they shall deem meet, open a book or books for the receipt of subscriptions for the shares of *The New and Preferential Stock* of the Company; and subscribers therefor, and their legal representatives and assigns, shall be deemed holders of the shares subscribed for, and be liable and bound to pay the calls to be made in respect thereof, and otherwise shall be on the same footing as the holders of shares of the *Old Stock*, but with the said preference in the division of profits hereinafter provided; and all transfers of shares of the Capital Stock of the Company shall express whether the shares transferred are shares of the *Old Stock* or of the *New and Preferential Stock* of the said Company.

Books may be opened for subscriptions to the New Stock.

As to transfers.

VI. And be it enacted, That the stock qualification of shareholders to the Directors of the said Company, shall be forty shares, of twenty five pounds currency each, of the Capital Stock, instead of twenty shares of fifty pounds currency each, required by the twenty-seventh section of the Act of Incorporation of the said Company, in which respect the said section is hereby amended.

Qualification of Directors.

VII. And be it enacted, That in the borrowing of moneys, by way of loan, and in creating mortgages or *hypothèques* for securing the same, the debentures of the said Company therefor, shall and may be in the forms contained in the Schedules numbers one and two, respectively, annexed to this Act, and the registration at full length, of a debenture, in the form of the Schedule number one, in the Registry office for the County in which the land or real estate, or any portion of the land or real estate of the Company, thereby specially mortgaged and hypothecated, shall lie, shall perfect the mortgage or *hypothèque* created by such debenture; and the debenture and mortgage or *hypothèque* thereby created shall be, to all intents and purposes binding upon upon the said Company, in favor of the holder of the debenture, any law or usage to the contrary notwithstanding: Provided always, that no debenture of the said Company shall be for a less sum than one hundred pounds currency.

Forms of Debentures with hypothec.

Registration of such Debentures.

Proviso: Debentures to be for not less than £100.

VIII. And be it enacted, That if after the registration in a County Registry Office of a debenture of the said Company, creating a mortgage or *hypothèque*, such debenture shall be presented at the Registry Office wherein it was registered, with the word "Cancelled," and the signature of the President, or other duly authorized Director of the said Company, or of the Secretary and Treasurer of the said Company, written across its face, the Registrar, or his Deputy, on receiving the usual fee in that behalf, and on proof of the cancellation, by the oath of one credible witness, (which oath the Registrar or his Deputy is authorized to administer,) shall forthwith make an entry in the margin of the register, against the registry of such debenture, to the effect that the same has been cancelled, adding to such entry the date thereof, and his signature, and thereupon the cancelled debenture shall be filed and remain of record in the said Registry Office: Provided always, that if any such cancelled debenture shall have been registered in more than one Registry Office, it shall remain of record in the Registry Office of the County within which the greater part of the property mortgaged and hypothecated thereby shall lie, the other Registrar or his Deputy having first endorsed thereon his certificate of the entry by him made of the cancellation thereof.

Entry of the cancelling of Debentures in the Registry Office.

Proviso as to Debentures registered in more than one Office.

IX. And to facilitate the registration of debentures of the said Company, creating mortgages or *hypothèques*—Be it enacted, that the said Company may at their own expense,

Provision for facilitating the Registration of Debentures.

expense, deposite in any Registry Office wherein such their debentures may require to be registered, any number of their printed or engraved blank debentures, in the form of the said Schedule number one annexed to this Act, bound together in a book, and having the pages thereof numbered and signed by the Secretary and Treasurer of the Company ; and thereupon the Registrar and his Deputy shall be bound to receive and retain the same as one of the Registry books of his office, and to register therein the said debentures of the Company, instead of registering them in the ordinary registry books of his office ; any ordinance or law to the contrary notwithstanding.

Charges upon the Revenue of the Company, and the order in which they shall rank.

X. And be it enacted, That on the completion of the said Rail-road the revenue derived therefrom shall be applied in the following order, that is to say :

First. To the discharge of all direct and incidental expenses necessary for the full and efficient working of the said Rail-road and its accessories, and keeping the same in perfect order and repair ;

Secondly. To the payment of the rents (*rentes*) of redeemable *constituts* ;

Thirdly. To the payment of interest on moneys loaned to the Company under the guarantee of either the Provincial or the Imperial Government, for the payment of such interest ;

Fourthly. To the payment of interest on all other moneys loaned to the said Company ;

Fifthly. To the appropriation of a portion, not less than two *per centum* of the amount of the remaining revenue or profits as a sinking fund towards the discharge of the capital of moneys loaned to the Company ;

Sixthly. To the payment of dividends of profits, to the extent of six *per centum per annum*, on the shares of " the New and Preferential Stock " of the Company ;

Seventhly. To the payment of dividends of profits, to the extent of six *per centum per annum*, on the shares of the Old Stock of the Company ; and

Lastly. To the payment of dividends of profits on the Old and New and Preferential Stock of the Company without distinction.

Company may pay interest at a rate not exceeding seven per cent. per annum.

XI. And be it enacted, That it shall and may be lawful for the said Company to allow and pay interest not exceeding the rate of seven *per centum per annum*, on any moneys by the said Company borrowed, by way of loan under the authority of the tenth section of the Act of the Parliament of this Province, passed in the tenth and eleventh years of Her Majesty's Reign, (chapter sixty-five,) intituled, *An Act to amend the Act incorporating the Saint Lawrence and Atlantic Rail-road Company, and to extend the powers of the said Company* ; any thing in the said tenth section of the said Act, or in any law or usage to the contrary notwithstanding.

Company may make rules as to transfer of Stock.

XII. And be it enacted, That it shall and may be lawful for the Directors of the said Company, from time to time, to make such rules and forms as they shall deem fit and proper

proper to facilitate the transfer in this Province or elsewhere, of shares of the capital stock of the said Company.

XIII. And be it enacted, That if at any time the Mayor, Aldermen and Citizens of the City of Montreal, or the Ecclesiastics of the Seminary of Saint Sulpice of Montreal, or any other Corporate Body, Civil or Ecclesiastical, in this Province, shall be desirous of subscribing for shares of the capital stock of the said Company, or of otherwise promoting the speedy completion of the said Rail-road, by loans of money or securities for money, at interest, or *à consitution de rente*, it shall be lawful for them respectively so to do in like manner and with the same rights and privileges in respect thereof, as private individuals may do under or in virtue of this Act, and the other Acts to which this Act has reference; any thing in any Ordinance or Act, or Instrument of Incorporation of any such Body, or in any law or usage to the contrary notwithstanding.

The Corporation of Montreal, or any other Corporation Ecclesiastical or otherwise may take Stock, or lend money to the Company.

XIV. And be it enacted, That this Act shall be, and be deemed to be, a public Act. Public Act.

SCHEDULE No. 1

(Referred to in this Act.)

SAINT LAWRENCE AND ATLANTIC RAIL-ROAD COMPANY LOAN.

No.

£ Currency.

This Debenture witnesseth, that the Saint Lawrence and Atlantic Rail-road Company, under the authority of the Provincial Statute, passed in the eighth year of Her Majesty's reign, intituled, *An Act to incorporate the Saint Lawrence and Atlantic Rail-road Company*, and the several Acts amending the same, having received from
of the sum of
currency, as a loan to bear interest from the date hereof, at the rate of
per centum per annum, payable half-yearly, on the day of
and on the day of which sum of
currency, the said Company bind and oblige themselves to pay on the
to the said or to the bearer hereof, and to pay
the interest thereon half yearly as aforesaid on the production of the *Coupon* therefor,
which now forms part of this debenture.

And for the due payment of the said sum of money and interest, the said Company, under the power given to them by the said Statute and Acts, do hereby mortgage and hypothecate the real estate and appurtenances hereinafter described, that is to say :
*(the Rail-road from to
and all the lands of the Company within those limits.)*

In

In testimony whereof
 hath hereto set and affixed his signature and the Common Seal of the said Company,
 at the City of Montreal, this _____ day of _____ one thousand
 eight hundred and _____

Countersigned and entered.

President.
Secretary and Treasurer.

I certify that this Debenture was duly registered in the Registry Office for the
 County of _____ in the District of _____ on the _____
 day of _____ one thousand eight hundred and _____ at _____
 of the clock in the _____ noon, in Register _____ page _____

Registrar.

SCHEDULE No. 2

(Referred to in this Act.)

SAINT LAWRENCE AND ATLANTIC RAIL-ROAD COMPANY LOAN.

No.

£ Currency.

This Debenture witnesseth, that the Saint Lawrence and Atlantic Rail-road
 Company, under the authority of the Provincial Statute, passed in the Eighth year of
 Her Majesty's reign, intituled, *An Act to Incorporate the Saint Lawrence and Atlantic
 Rail-road Company*, and the several Acts amending the same, have received from
 the sum of _____ Currency, as a loan,
 to bear interest from the date hereof, at the rate of _____ *per centum per*
annum, payable half yearly, on the _____ day of _____ and
 on the _____ day of _____ which sum of
 _____ pounds Currency, the said Company hereby bind and oblige
 themselves to pay on the _____ to the said
 or to the bearer hereof, and to pay the interest thereon, half yearly, as aforesaid, on the
 production of the *Coupon* therefor, which now forms part of this Debenture.

In testimony whereof
 hath hereunto set and affixed his signature and the Common Seal of the said Company,
 at the City of Montreal, this _____ day of _____ one thousand
 eight hundred and _____

Countersigned and entered,

President.
Secretary and Treasurer.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CLXXVII.

An Act further to amend the Act incorporating *The Montreal and Lachine Rail-Road Company*, and for other purposes.

[30th May, 1849.]

WHEREAS it is expedient to amend further a certain Act made and passed in the ninth year of Her Majesty's Reign and intituled, *An Act to incorporate the Montreal and Lachine Rail-Road Company*; And whereas the capital of seventy-five thousand pounds currency, which the said Company was authorized by the said Act to raise, has been found insufficient for the purposes of the said Act, and in consequence of the existing shares of the said Company having for a long time been and now being below par, it has been and is impossible for the said Company to raise a further sum of money sufficient for completing and perfecting the said Rail-Road, in the manner and upon the terms and conditions in the said Act mentioned; And whereas it is expedient to give the said Company certain additional powers, as well for the raising of the said sum of money as for other purposes: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council, and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall be lawful for the said Company to raise among themselves, or by the admission of new subscribers, or in both those ways, a further sum for completing and perfecting the said Rail-Road and other works or conveniences incidental or relative thereto, not exceeding the sum of forty thousand pounds currency; and if it be determined to raise the said sum or any part thereof by the admission of new subscribers, it shall be lawful for the said Company to cause a book or books of subscription to be opened in the City of Montreal, at such place or places as they may appoint, and every person who, or whose attorney shall write his or her signature in any such book thereby become a proprietor in the said Company, to the extent of the number of shares for which he or she shall so subscribe; and it shall be lawful for the said Company to divide the said further sum of money to be so raised into such number of shares as the said Company shall think fit, and the said last mentioned shares shall be issued upon such terms and conditions with respect to the right of voting to be given to, and the share of profits to be received by the holders of such new shares, and the preference to be given them over other Shareholders with regard to such share of profits, and with respect to the repayment of the Capital to be subscribed by them, in the event of the said Rail-Road

Preamble.
Act 9th Vict.
c. 82, cited.

In what
manner the
Company may
raise a further
sum for com-
pleting the
rail-road.

Books of sub-
scription to be
opened.

As to the
mode of rais-
ing the said
money, giving
security for
the same,
advantages to
be given to the
holders of new
Stock, &c.

or

or any part of the property, moveable or immoveable, of the said Company being sold, and in all other respects as the said Company shall think fit; and it shall be in the power of the said Company from time to time to change the said terms and conditions with respect to any part of the said additional sum of money not then actually subscribed for, but so as not to affect the rights or security of any party having previously subscribed for any part thereof; and no subscriber for, or holder of any of the said shares to be so issued, shall be in any manner whatsoever liable for, or charged with, the payment of any debt or demand due by the said Company, beyond the extent of his, her or their share in the additional Capital of the said Company, not paid up by him, her or them respectively: And the shares to be subscribed for and issued under the present Act, shall be sold and transferred in the manner provided by the said Act with respect to the now existing shares in the Stock of the said Company; And all the provisions of the said Act, namely, of the Act to incorporate *The Montreal and Lachine Rail-Road Company*, shall be applicable to the shares to be subscribed for and issued under the provisions of the present Act, excepting in so far as the provisions of the said Act are inconsistent with the provisions of the present Act, or with any agreement, contract, regulation or By-law lawfully made by the said Company under this Act.

Liability of Shareholders limited.

Former Act to apply to new Shares, except where inconsistent with the Act, &c.

As soon as increased capital is subscribed, Company may require payment thereof, &c.

Proviso as to amount of calls.

Calls unpaid to bear interest, and the party in default to incur a penalty.

II. And be it enacted, That as soon as the said sum of forty thousand pounds currency, or any part thereof, shall have been subscribed for as aforesaid, it shall be lawful for the said Company from time to time to call in and require the payment of the sums so subscribed for, as the same may be required for the use of the Company; Provided, however, that no call do exceed one fifth part of the whole of each share, and that no calls be made payable but at the distance of at least one calendar month from each other; and the owner or owners of any of the said shares to be issued under the authority of this Act, shall pay any call or calls that may be so made upon his, her or their shares, to such person and persons and at such time and place as shall be appointed and directed by the said Company, of which three weeks' notice shall be given in the *Canada Gazette*, and in any other newspaper published in the District of Montreal; and any call or calls made by the said Company, and not paid at the time appointed for payment thereof, shall bear interest in favor of the Company, at the rate of six per centum per annum from the time the same shall be made payable until paid; and the holder of the shares in respect of which such default shall be made, shall thereby forfeit in favor of the said Company a sum equal to five per centum, on the amount of the calls so not paid at the time appointed for the payment thereof, and it shall be lawful for the said Company to sue for and recover the said calls with interest as aforesaid, and the penalty aforesaid together with costs of suit, in any Court having jurisdiction in civil cases to the amount sued for.

What it shall be sufficient to allege and prove in actions for calls and penalties.

III. And be it enacted, That in actions or suits at Law by the Company, either for calls made by virtue of the said Act incorporating the said Company, and for the interest thereon by virtue of an Act passed in the Session of the Provincial Parliament, held in the tenth and eleventh years of Her Majesty's Reign, intituled, *An Act to amend the Act to incorporate the Montreal and Lachine Rail-Road Company, and for other purposes therein mentioned*, or without such interest, or for calls made by virtue of the present Act, with or without interest, and with or without the penalties aforesaid, it shall not be necessary to set forth the special matter, but it shall be sufficient for the Company to declare that the Defendant is a holder of one or more shares in
the

the said Company, as the case may be, and is indebted to the Company in the sum of money to which the call or calls in arrear and penalties shall amount, with interest as aforesaid; and in any such action it shall not be competent to the Defendant to plead the general issue, but he may, by a plea in denial, traverse any particular matter or matters of fact alleged in the Declaration, or specially plead some particular matter or matters of fact in confession and avoidance; and in order to maintain any such action for calls made under the present Act, either with or without interest, and with or without the penalties aforesaid, or for calls and interest either under this Act, or for calls under the Act incorporating the said Company, with or without the interest payable thereon as aforesaid, it shall be sufficient to prove by any one witness whether in the employment of the Company or not, that the Defendant subscribed or caused his name to be subscribed for the shares in respect of which he is sued, or that he has become the holder of those shares, and that the calls in arrear have been made as aforesaid, and that he is indebted to the Company in the sum of money so sued for, or in any less amount, and thereupon, unless legal proof to the contrary be adduced, the Court shall give judgment in favor of the Company for the sum of money and interest and penalties so sued for and proved to be due, with costs of suit, and if any person or persons shall neglect to pay any such call or calls so due by him, her or them, for the space of one calendar month after the time appointed for the payment thereof, then it shall be in power of the said Company, if they think fit so to do, to declare the share or shares in respect of which such default shall have been made forfeited, and to cause the same to be sold by public auction for the payment of any calls, interest or penalties due in respect thereof, and the proceeds of the sale, after deducting the costs thereof, and after the Company shall have been paid the calls, interest and penalties due in respect of the shares so sold, shall be paid over to such defaulter, and the President or Vice-President of the Company shall have power to transfer the shares to the purchaser thereof, and thereupon, if the proceeds of the sale be sufficient to pay the costs thereof, and all calls made at any time before such sale and all penalties due in respect of the shares so sold, with all interest due on such calls, such defaulter shall be absolved from all his or her obligations in respect of the shares so sold, as with respect to the said Company and as with respect to the creditors thereof; but if the proceeds of such sale be insufficient to pay the costs thereof and all calls made as aforesaid, at any time before such sale, and all penalties due in respect of such sale, and all interest due on such calls, then such defaulter shall remain liable for the deficiency to the Company, who may sue for the same in any Court having competent jurisdiction.

As to pleas by the Defendant.

Forfeiture and sale of Shares on which calls remain unpaid.

IV. And be it enacted, That the twenty-seventh section of the said Act first above cited and amended, shall be, and the same is hereby repealed; and in lieu thereof, it is hereby enacted, that the said Company may from time to time lawfully borrow, either in this Province or elsewhere, such sum or sums of money, not exceeding in the whole at any one time the sum of fifty thousand pounds currency, as they may find expedient, and at such rate of interest even exceeding six per centum per annum, as they may think proper, and may make the bonds, debentures or other securities they shall grant for the sum so borrowed, payable either in currency or in sterling, and at such place or places within or without this Province, as they may deem advisable, and may by such bonds, debentures or other securities, hypothecate or pledge the lands, tolls, revenues and other property of the said Company, for the due payment of the said sums and of the interest thereon; and any of the said debentures whereby it is intended to mortgage and hypothecate the Real Estate of the Company, may be in the form number one, annexed to this Act, or

The twenty-seventh section of above mentioned Act repealed.

Conditions on which the Company may borrow money &c.

Forms of Debentures bearing hypothec, &c.

in

Registration of
Debentures,
proof of execu-
tion, &c

in any other form that may be determined on by the said Company ; and the Registrar of the County of Montreal, and any other Registrar in whose office, it may at any time hereafter be necessary to register the said debentures, in order to give full effect thereto, and their Deputies respectively, are hereby empowered and required to enter and register, at full length, any of the said debentures which may be brought to be registered, on receiving the usual fee in that behalf, and on proof of the execution thereof, by the oath of one witness, which oath any such Registrar or his Deputy is hereby authorised to administer ; and if at any time after the registration of any such debenture as aforesaid, the same shall be brought to such Registrar or his Deputy with the word cancelled, and the signature of the President, or other duly authorized Director of the said Company, written across the face thereof, the said Registrar or his Deputy shall make an entry in the margin of the Register against the Registry of such debenture, to the effect that such debenture has been cancelled, adding the date of such entry, and shall thereupon file such debenture, to remain of record in the said Registry Office, in the same manner as certificates of discharge ; and any of the said debentures whereby it is not intended to mortgage and hypothecate the Real Estate of the said Company, may be in the form number two, to this Act annexed, or in any other form that may be determined on by the said Company ; and it shall be lawful for the said Company, if they see fit, to make the said debentures to be so issued by the said Company, or any part thereof that they may think proper, payable to bearer, and every debenture so issued payable to bearer, shall be transferable by delivery, and shall, with all interest due thereon, be payable to the bearer thereof, who shall, until the contrary be proved, in all law proceedings and on all other occasions, be held to be the proprietor of such debenture, and of the debt and interest intended to be secured thereby, with all the hypothecary and other rights and privileges attached thereto ; and it shall also be lawful for the said Company to grant such debentures to any person or persons, corporation or corporations to whom the said Company may be indebted and who may be willing to receive the same ; Provided always, that nothing herein contained shall defeat or in any way impair any bond, debenture, obligation, hypothec, mortgage, or other security heretofore granted by the said Company ; And it shall be lawful for all Corporations, whether Ecclesiastical or Civil, to subscribe for any part of the sum of money which by virtue of the present Act may be raised by the issuing of shares as aforesaid, and for any such Corporation to exercise all the rights of shareholders in the said Company, with respect to the shares for which they may so subscribe, and it shall also be lawful for any such Corporation whether Ecclesiastical or Civil, to loan any part of the sum of money authorized to be borrowed by the present Act, and in respect of any such loan to receive, hold and dispose of any security or securities which the said Company is empowered to give by the present Act ; any Law, Ordinance, usage or custom, to the contrary notwithstanding ; Provided always, that it shall not be lawful for the said Company to issue any debenture payable to bearer under this Act for a less sum than one hundred pounds.

Form of
Debentures
not bearing
hypothee.

Debentures
how payable
and to whom.

Proviso.

What Corpo-
rations may
lend money to
the Company
or take Stock,
&c.

Proviso :

Provision with
respect to sale
of Rail-road,
&c.

V. And be it enacted, That in the event of its being determined by a majority consisting of not less than two thirds of the votes of the proprietors of the said Company, present in person or by proxy, at any General Meeting of the Proprietors of the said Company, that it is necessary to sell the said Rail-Road, it shall be lawful for the said Company at any time thereafter to sell the said Rail-Road, and all the property, moveable and immoveable of the said Company, without any reservation or exception ; and the sale of the said Rail-Road and other property shall be made by Notarial

Notarial Instrument in the usual form, which shall expressly set forth in what proportions the shares in the said Company and undertaking shall from and after such sale vest in the purchasers respectively ; and on such sale being made, the persons who immediately before the making of such sale, shall be proprietors of shares in the said Rail-Road and in the Stock of the said Company, shall cease to be so proprietors, and the persons so purchasing the said Rail-Road, shall under and by virtue of such sale become the proprietors of all the said shares and of the said Rail-Road, and of all the property, moveable and immoveable belonging to the said Company, excepting only such part thereof as may by such deed of sale be expressly exempted from the operation thereof ; and the said persons so purchasing the said Rail-Road shall, under and by virtue of such deed of sale, become the proprietors of the whole of the stock or shares of the said Company, in the proportions to be determined as aforesaid, in and by such deed of sale, and may at any time after the execution of such deed of sale, proceed to appoint Directors, and to exercise all the rights, powers, privileges, and authorities, without any exception, which, either under this Act or any former Act, could, immediately before the execution of such deed of sale, have been exercised by the persons who were then the proprietors of the said shares ; and the sale to be so made shall not cause a dissolution of the Corporation created by the said Act, namely, of *The Montreal and Lachine Rail-Road Company*, but the said Corporation shall be continued in and by the persons so purchasing the Capital Stock and Shares in the said Company, and their respective assigns and *ayants cause*, as fully and effectually to all intents and purposes as the same would have been continued in and by the former proprietors of the said Capital Stock and Shares, and their respective assigns and *ayants cause*, if no such sale had taken place ; and such sale shall not defeat or in any way impair the rights of third parties against the said Corporation, nor the rights of the said Corporation against third parties, nor shall such sale in any way affect any suit or suits in which the said Corporation shall or may be parties or interested at the time of making such sale ; and the persons who shall be Directors of the said Company, immediately previous to such sale, shall from and after such sale cease to be, or to have any power or authority as such Directors, but as having been such Directors, and as being the vendors named in such deed of sale as aforesaid, they and the survivors and survivor of them shall have power and authority to enforce in their own names and in the names of the survivors and survivor of them, by all suits at law and other lawful ways and means, all obligations contracted in and by any such deed of sale, in their favour or in favour of the proprietors represented by them, and to apply the proceeds of the sale and of any property belonging to the Company excluded from the operation of the said sale, (and which shall be thereafter vested in the said *quondam* Directors and the survivors or survivor of them, with full power to sell and convey the same or any part thereof,) for the purposes hereinafter mentioned, to wit, firstly to the payment of any debts due by the said former proprietors, and then to distribute the balance among the said former proprietors according to their rights and interests therein ; and any deed of sale to be so executed shall not be invalid, or be liable to be objected to in any way, on account of any of the persons acting therein as Directors of the said Company being among the persons so purchasing the said Rail-Road, nor shall any suit or action under it be liable to be objected to, because the same parties or any of them shall be at the same time Plaintiffs and Defendants ; and any act, deed or thing done or executed by any majority of the *quondam* Directors or of the survivors of them, on their own behalf and on that of the other *quondam* Directors, shall have the same legal effect as if done or executed by all of them.

Effect of sale of the Rail-road.

Rights and powers of the purchasers.

Corporation to be continued in the purchasers.

Rights of third parties not to be impaired.

Certain powers to rest in the Directors at the time of the sale, as representing the vendors.

Such Directors may be themselves the purchasers or among the purchasers.

Majority may act.

The Company have and shall have power to become parties to Promissory Notes, &c.

VI. And whereas doubts have been entertained as to the power of the said Corporation to become a party to promissory notes or bills of exchange—Be it therefore declared and enacted, That the said Corporation have, and shall continue to have power to become parties to promissory notes and bills of exchange; and any promissory note made or endorsed, and any bill of exchange drawn, accepted or endorsed by the President of the Corporation or any two of the Directors for the Corporation, and under the authority of a majority of a quorum of the Directors, is and shall be binding upon the Corporation; and every promissory note or bill of exchange made, drawn, accepted, or endorsed by the President of the said Corporation or any two of the Directors, as such, shall be presumed to have been properly made, drawn, accepted or endorsed, as the case may be, for the Company, until the contrary be shown; and in no case shall it be necessary to have the seal of the Company affixed to any such bill of exchange or promissory note, nor shall the President or Directors of the Company so making, drawing, accepting or endorsing any such promissory note or bill of exchange be thereby subjected individually to any liability whatever: Provided always, that nothing in this clause shall be construed to authorize the said Company to issue any note payable to bearer or any promissory note intended to be circulated as money, nor shall any note issued or to be issued by the said Company be assignable or transferable otherwise than by endorsement in full.

Proviso: against acting as Bankers.

Debts under Sections 36 and 37, of 9 Vict. c. 82, removed.

VII. And whereas doubts have arisen as to the meaning of certain parts of the thirty-sixth and thirty-seventh sections of the said Act herein first cited and amended, and it is expedient to remove such doubts—Be it therefore declared and enacted, and it hereby is declared and enacted, That no person or persons who shall have failed or shall fail even for a space of two calendar months or more, to pay his, her or their rateable calls on any share or shares issued under the provisions of the said Act incorporating the said Company, has or have, by reason of any such default, been freed, nor shall by reason of such default be freed or discharged from his, her or their liability to pay the said calls to the said Company, nor from any other liability to the said Company, unless the share or shares in relation to which such default shall have been made, shall have been declared to be forfeited at some annual or special meeting of the said Company, as mentioned in the thirty-seventh section of the said last mentioned Act.

Part of Sect. 36 of 9 Vict. c. 82, repealed.

VIII. And be it enacted, That so much of the thirty-sixth section of the said Act as provides that if any person or persons shall neglect or refuse to pay his, her or their rateable or proportionable part or share of the said money, to be called for as aforesaid, at the time and place so appointed, he, she or they neglecting or refusing shall forfeit a sum not exceeding the rate of five pounds for every one hundred pounds of his, her or their respective share or shares in the said undertaking, shall be and the same is hereby repealed.

Company bound to keep watchmen only where their R. R. crosses the main road to Lachine. Sign-board to be put up at other crossings.

IX. And be it enacted, That for and notwithstanding any thing in the eighth section of the said Act, the said Company shall not be obliged to keep a person at each place where their Rail-road crosses any public highway upon a level, but shall be obliged to do so only at the places where the said Rail-road crosses the main turnpike road from the city of Montreal to Lachine, but the said Company shall at each and every other place where the said Rail-road shall cross any highway on a level, erect and keep up a sign board stretching across the highway at such a height as to leave sixteen feet from

from the highway to the lower edge of the sign board, and having the word *Rail-way Crossing*, and *Traverse de chemin à Rails*, painted on each side thereof in letters not less than six inches in length; and for each and every neglect to comply with this requirement, the said Company shall incur a penalty of five pounds currency.

Penalty for neglect.

X. And be it enacted, That if at the time of any meeting for the choosing of Directors to manage the affairs of the said Company, there shall not be thirteen Shareholders qualified to act as Directors of the said Company, then and in that case the number of Directors shall be limited to the number of Shareholders qualified to act as Directors; but the want of a sufficient number of qualified Shareholders at any one meeting shall not prevent the election of the full number of Directors at any subsequent meeting.

Provision for the case of there being fewer than thirteen purchasers of the Rail-road.

XI. And be it enacted, That all and every the powers granted to the said Company by the present Act or by the Act herein cited and amending the said Act herein first cited, shall and may without any exception be exercised by a majority of a *quorum* of the Directors of the said Company present at any meeting of the Directors regularly held, or by any greater number of the said Directors.

By whom the powers under this Act, or the Act amended, may be exercised.

XII. And be it enacted, That the forty-seventh section of the Act herein first cited, and the twelfth section of the Act herein cited amending the said Act, be and the same are hereby repealed; and that the said Company shall at all times when thereunto required by Her Majesty's Deputy Post Master General, the Commander of the Forces, or any person having the superintendence or command of any Police Force, and with the whole resources of the Company if necessary, carry Her Majesty's Mails, Her Majesty's Naval or Military Forces or Militia and all Artillery, ammunition, provisions or other Stores for their use, and all Policemen, Constables and others travelling on Her Majesty's Service, on their said Rail-road, on such terms and conditions and under such regulations as the said Company and the said Deputy Post Master General, the Commander of the Forces, or person in command of any Police Force, respectively, shall agree upon, or if they cannot agree then on such terms and conditions and under such regulations as the Governor or person administering the Government shall in Council make; Provided that any further enactments which the Legislature of this Province may hereafter deem it expedient to make, with regard to the carriage of the said Mail, or Her Majesty's Forces, and other persons and articles as aforesaid, or the rates to be paid for carrying the same, or in any way respecting the use of any Electric Telegraph or other service to be rendered by the Company to the Government shall not be deemed an infringement of the privileges conferred by the said Acts or either of them, or by this Act, or intended so to be.

Sect. 47 of 9 Vict. c. 82, and Sect. 12, of 10 and 11 Vict. c. 65, repealed.

Company to carry Her Majesty's Mail, Soldiers, &c.

Terms of compensation how regulated.

Proviso:

XIII. And be it enacted, That for and notwithstanding any thing in the said Acts or either of them, no By-law, Rule or Order which may be made by the said Company after the passing of this Act, shall have any force or effect until the same shall have been sanctioned and confirmed by the Governor of this Province under His Hand and Seal at Arms, and shall thereafter have been published in the *Canada Gazette*.

By-laws to be confirmed by the Governor in Council.

XIV. And be it enacted, That this Act shall be deemed and taken to be a Public Act, and as such shall be judicially taken notice of by all Judges, Justices of the Peace, and others, without being specially pleaded.

Public Act.

FORM

FORM No. 1

(Referred to in the foregoing Act.)

MONTREAL AND LACHINE RAIL-ROAD COMPANY LOAN.

No.

£

Currency.

This Debenture witnesseth, that the Montreal and Lachine Rail-Road Company, under the authority of the Provincial Statute passed in the
 intituled, *An Act further to amend the Act incorporating the Montreal and Lachine Rail-Road Company, and for other purposes*, have received from A. B., of &c., the sum of _____ currency, as a loan to bear interest from the date hereof, at the rate of _____ per cent. per annum, payable half yearly, on the _____ day of _____ and on the _____ day of _____, which sum of _____ pounds currency, the said Company hereby bind and oblige themselves to pay on the _____ to the said A. B., or to the bearer hereof, and to pay the interest thereon half-yearly as aforesaid.

And for the due payment of the said sum of money and interest, the said Company, under the power given to them by the said Statute, do hereby mortgage and hypotheca e the Real Estate and appurtenances hereinafter described, that is to say: *describe the premises to be hypothecated, or say, "the Rail-Road from the City of Montreal to Lachine, and all the lands purchased or taken for the same, and the buildings, wharves and appurtenances thereon constructed or erected, and lying partly in the Parish of Montreal and partly in the Parish of Lachine, in the District of Montreal," which words shall include all the Real Estate and property of the said Company, unless any part be expressly excepted, as it may be.*

In testimony whereof, I (or we, *give name of President or Directors authorized as mentioned in sixth section of 10 and 11 Vict. cap. 63,*) have hereto affixed the Common Seal of the said Company, at the City of Montreal, this _____ day of _____ one thousand eight hundred and _____

[L. S.]

(Signature.)

FORM No. 2.

(Referred to in the foregoing Act.)

MONTREAL AND LACHINE RAIL-ROAD COMPANY LOAN.

No.

£

Currency.

This Debenture witnesseth, that the Montreal and Lachine Rail-Road Company, under the authority of the Provincial Statute passed in the
 intituled, *An Act further to amend the Act incorporating the Montreal and Lachine Rail-Road Company, and for other purposes*, have received from _____

from A. B., of _____ &c., the sum of _____
 currency, as a loan to bear interest from the date hereof, at the rate of _____ per cent.
 per annum, payable half-yearly, on the _____ day of _____ and on the _____
 day of _____, which sum of _____ pounds currency,
 the said Company hereby bind and oblige themselves to pay on the _____
 to the said A. B., or to the bearer hereof, and to pay the
 interest thereon half-yearly as aforesaid.

In testimony whereof, I (or we, *give name of President or Directors authorized as mentioned in 6th section of 10 and 11 Vict. cap. 63,*) have hereto affixed the Common Seal of the said Company, at the City of Montreal, this _____ day of _____
 one thousand eight hundred and _____

(Signature.)

[L. S.]

MONTREAL : Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
 Law Printer to the Queen's Most Excellent Majesty.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CLXXVIII.

An Act to incorporate *The Montreal and Vermont Junction Rail-way Company.*

[30th May, 1849.]

WHEREAS The Honorable Robert Jones, Jason C. Peirce, P. P. Russell, James Taylor, Charles Seymour, H. H. Whitney, A. L. Taylor, H. Stephens, Edwin Atwater, John Young, Nelson Mott, Ed. Bourgeois, Henry Larocque and Robert McKay, have by their Petition to the Legislature represented that they, and several of the most energetic and influential citizens of the United States of America have it in contemplation to create conjointly an uninterrupted line of communication by Rail-way between the Cities of Montreal, New-York and Boston ; And whereas the construction of the said Rail-way would greatly tend to facilitate the intercourse and promote the interests of trade and commerce, between this country and the said States : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the said Honorable Robert Jones, Jason C. Peirce, P. P. Russell, James Taylor, Charles Seymour, H. H. Whitney, A. L. Taylor, H. Stephens, Edwin Atwater, John Young, Nelson Mott, Ed. Bourgeois, Henry Larocque and Robert McKay, together with such person or persons as shall under the provisions of this Act, become subscribers to and proprietors of any share or shares in the Rail-way hereby authorized to be made and other works and property hereinafter mentioned, and their several and respective heirs, executors, administrators, curators and assigns, being proprietors of any such share or shares, are and shall be and be united into a company for carrying on, making, completing and maintaining the said intended Rail-way and other works, according to the rules, orders and directions hereinafter expressed, and shall for that purpose be one body politic and corporate by the name of *The Montreal and Vermont Junction Rail-way Company*, and by that name shall have perpetual succession and shall have a common seal, and other the usual powers and rights of bodies corporate not inconsistent with this Act, and by that name shall and may sue and be sued, and also shall and may have power and authority to purchase and hold lands, (which word shall throughout this Act be understood to include the land and all that is upon or below the surface thereof, and all the real rights and appurtenances thereunto belonging,) for them and their successors and assigns, for the use of the said Rail-way

Preamble.

Certain persons and their successors incorporated.

Corporate name and powers.

Word 'Lands,' how understood.

Rail-way and works, without Her Majesty's *Lettres d'Amortissements*, (saving nevertheless to Seigneur or Seigniors within whose *censive* the lands, tenements and hereditaments so purchased may be situate, his and their several and respective *droits d'indemnité*, and all other Seigniorial rights whatever,) and also to alienate and convey any of the said lands purchased for the purposes aforesaid; and any person or persons, bodies politic or corporate, or communities may give, grant, bargain, sell or convey to the said Company any lands for the purposes aforesaid, and the same may re-purchase of the said Company without *Lettres d'Amortissement*, and the said Company shall be and are hereby authorized and empowered from and after the passing of this Act, by themselves, their deputies, agents, officers, workmen and servants, to make and complete a Rail-way to be called *The Montreal and Vermont Junction Rail-way*, with one or more sets of rails or tracks, and to be worked by locomotive engines, or on the atmospheric principle, or in such other mode as the said Company may deem expedient from the River St. Lawrence opposite Montreal, to such point at the Province Line near Highgate, Vermont, as the Company may deem expedient (for forming a junction with a Rail-way from Burlington, Vermont) and crossing the River Richelieu at the foot of the navigation at the Town of Dorchester commonly called St. Johns, by a bridge with a draw corresponding in dimensions with the draws on the Chambly Canal, and of sufficient width for any vessels to pass which may navigate that canal or any canal which may connect the waters of the St. Lawrence with those of the Richelieu; which Bridge shall be used for no other purpose than the passage of Locomotives, Cars and Carriages belonging to the said Company with the passengers and freight therein, and of the Servants and Officers of the said Company, and not for the passage of any other carriage, person or thing: Provided that if the said Bridge shall be built above the present Bridge of the Honorable Robert Jones, two draws shall be made, one of which shall be made on the St. Athanase side and the other on the St. John's side of the River Richelieu, and that the rights of the Honorable Robert Jones shall not be infringed upon without full indemnity, which indemnity shall if not agreed upon between the parties be determined by Arbitrators in the manner hereinafter provided in other cases; and in ascertaining the amount of such indemnity the Arbitrators shall take into consideration and allow for the prospective increase in the amount of the traffic over the bridge of the said Honorable Robert Jones, and shall allow full indemnity for the damage he may sustain from the loss of future as well as of present traffic over his said bridge in consequence of the construction of the said Rail-way and of the Bridge of the said Company, that a station shall be established at the St. Athanase termination of the said Bridge, with the privilege of forming a junction with the Saint Lawrence and Champlain Rail-road at Saint Johns, provided a satisfactory arrangement can be made with that Company, to wit: That within two years from the passing of this Act, the St. Lawrence and Champlain Rail-road Company shall continue their Road from Saint Johns, to such point opposite the City of Montreal, as this Company may deem expedient for the St. Lawrence terminus, and shall carry freight and passengers at the same rate per mile as this Company, and shall keep the road open for business throughout the year; and Provided also, that the said Company may if they think proper to purchase the Bridge of the said Honorable Robert Jones, and if they can agree with him as to the indemnity to be paid therefor (but not without his consent) acquire from him the said Bridge and all the rights and privileges whatsoever thereunto relating or therewith connected and to him belonging; and the same if so acquired shall thereafter be vested in the said Company and may be held and exercised by them

Direction of
the said Rail-
way.

Proviso as to
Jones' Bridge
over the River
Richelieu.

Proviso: Com-
pany may buy
Jones' Bridge,
with his
consent.

as fully and effectually to all intents and purposes as they now are or can be by the said Honorable Robert Jones.

II. And be it enacted, That for the purposes aforesaid, the said Company, their deputies, servants, agents and workmen, are hereby authorized and empowered to enter into and upon any lands and grounds of the Queen's Most Excellent Majesty, not hereinafter excepted, or of any person or persons, bodies politic or corporate or collegiate, or communities or parties whatsoever, and to survey and take levels of the same, or any part thereof, and to set out and ascertain such parts thereof as they shall think necessary and proper for making the said intended Rail-way and other works hereby authorized, and all such works, matters and conveniences as they shall think proper and necessary for making, effecting, preserving, improving, completing, maintaining and using the said intended Rail-way and other works, and also to bore, dig, cut, trench, get, remove, take, carry away, and lay earth, clay, stone, soil, rubbish, trees, roots of trees, beds of gravel or sand, or any other matters or things which may be dug or got in making the said intended Rail-way or other works, on or out of the lands or grounds of any person or persons adjoining or lying convenient thereto, and which may be proper, requisite or necessary for making or repairing the said intended Rail-way, or the works incidental or relative thereto, or which may hinder, prevent or obstruct the making, using or completing, extending or maintaining the same respectively, according to the intent and purpose of this Act ; and to make, build, erect and set up, in or upon the said intended Rail-way, or upon their lands adjoining or near the same respectively, such and so many houses, warehouses, toll-houses, watch-houses, telegraphs or other signals, weighing beams, cranes, fire-engines, steam-engines or other engines, either stationary or locomotive, inclined planes, machines and other works, ways, roads and conveniences, as and when the said Company shall think requisite and convenient for the purposes of the said Rail-way and works ; and also from time to time to alter, repair, divert, widen, enlarge and extend the same, and also to make, maintain, repair and alter any fences or passages over, under or through the said intended Rail-way ; and to construct, erect and keep in repair any bridges, arches and other works upon and across any rivers or brooks for the making, using, maintaining and repairing the said intended Rail-way ; and to turn any such brook, river or water course, and to change its course ; and to construct, erect, make and do all other matters and things which they shall think convenient and necessary for the making, effecting, extending, preserving, improving, completing and easy using of the said intended Rail-way and other works, in pursuance of and according to the true intent and meaning of this Act, they the said Company doing as little damage as may be in the execution of the several powers to them hereby granted, and making satisfaction in manner hereinafter mentioned, to the owners or Proprietors thereof, or the persons interested in the lands, tenements or hereditaments, water, water courses, brooks or rivers respectively, which shall be taken, used, removed, prejudiced, or of which the course shall be altered, or for all damages to be by them sustained in or by the execution of all or any of the powers given by this Act ; and this Act shall be sufficient to indemnify the said Company and their servants, agents or workmen, and all other persons whatsoever, for what they or any of them shall do by virtue of the powers hereby granted, subject nevertheless to such provisions and restrictions as are hereinafter mentioned.

Power to the Company to set out and survey lands necessary for their works, &c.

To get and place materials.

To erect Buildings, Machinery, &c.

Bridges and other works for passing Streams, &c.

Other works necessary for the Rail-way.

As little damage as possible to be done and compensation to be made.

III.

How the Rail-way shall be carried across Roads.

III. Provided always, and be it enacted, That the said Company shall not carry the said Rail-way along any highway, but shall merely cross the same in the line of the said road whatever be the angle at which such line shall intersect the said highway ; and before they shall in any way obstruct such highway with their works, they shall turn the said highway, at their own charges, so as to leave an open and good passage for carriages, free from obstructions, and when their works are completed, they shall replace the said highway, under a penalty of five pounds currency for any contravention, over and above all damage sustained by any party ; but in any case the rail itself, provided it does not rise above or sink below the surface of the road more than one inch, shall not be deemed an obstruction.

As to the Rail itself.

Company by a sworn Surveyor and Engineer shall take surveys and levels, and make a map or plan.

Plan and book of reference to be made and deposited.

IV. And be it enacted, That for the purposes of this Act, the said Company shall and may by some Sworn Land Surveyor for Lower Canada, and by an Engineer and Engineers by them to be appointed, cause to be taken and made surveys and levels of the lands through which the said intended Rail-way is to be carried, together with a map or plan of such Rail-way, and of the course and direction thereof, and of the said lands through which the same is to pass, and the lands intended to be taken for the several purposes authorized by this Act, so far as then ascertained, and also a book of reference for the said Rail-way, in which shall be set forth a description of the said several lands, and the names of the owners, occupiers and proprietors thereof, so far as they can be ascertained by the said Corporation, and in which shall be contained every thing necessary for the right understanding of such map or plan ; which said map or plan and book of reference shall be examined and certified by the person performing the duties formerly assigned to the Surveyor General or his Deputies, who shall deposit copies thereof in the Office of the Prothonotary of the Court of Queen's Bench for the District of Montreal, and also in the Office of the Secretary of the Province, and shall also deliver one copy thereof to the said Company ; and all persons shall have liberty to resort to such copies so to be deposited as aforesaid, and to make extracts or copies thereof as occasion may require, paying to the said Secretary of the Province or Prothonotary at the rate of six pence, current money of this Province, for every hundred words ; and the said triplicates of the said map or plan and book of reference so certified, and a true copy or copies thereof certified by the Secretary of the Province, or by the Prothonotary of the Court of Queen's Bench for the said District, shall severally be and are hereby declared to be good evidence in the Courts of Law and elsewhere.

When the Rail-way crosses any Highway, the rail, &c., to be within one inch of the surface.

V. Provided always, and be it enacted, That where the said Rail-way shall cross any public highway (which word shall in this Act include all public streets, lanes or other public ways or communications) neither the rail nor any other part of the Rail-way or works connected therewith, shall rise above the level of such street or highway, or sink below the level of such street or highway more than one inch ; and the said Rail-way may be carried across any highway within the limits aforesaid.

Height of Bridges over any Highway.

VI. Provided always, and be it enacted, That where any bridge shall be erected or made by the said Company for the purpose of carrying the said Rail-way over or across any highway, the space of the arch of any such bridge shall be formed, and shall at all times be and be continued of such breadth as to leave a clear and open space under every such arch of not less than twenty feet, and of a height from the surface of such highway to the centre of such arch, of not less than sixteen feet, and the descent under any such bridge shall not exceed one foot in twenty.

Descent under such Bridges.

VII. Provided always, and be it enacted, That in all places where it may be necessary to erect, build or make any bridge or bridges for carrying any highway over the Rail-way, the ascent of any such bridge for the purpose of every such highway, shall not rise more than one foot in twenty feet; and a good and sufficient fence shall be made on each side of every such bridge, which fence shall not be less than four feet above the surface of such bridge.

And of Bridges over the Rail-way.

Fence to Bridge.

VIII. Provided always, and be it enacted, That the said Company shall, at each and every place where the said Rail-way shall cross any highway on a level, erect and keep up a sign-board, stretching across the highway, at such height as to leave sixteen feet from the highway to the lower edge of the sign-board, and having the words "RAIL-WAY CROSSING" painted on each side of such sign-board, in both languages, and in letters not less than six inches in length; and for each and every neglect to comply with the requirements of this section, the said Company shall incur a penalty not exceeding five pounds currency.

Precautions: when the Rail-road crosses the Highway on a level.

IX. And be it enacted, That the said Company in making the said intended Rail-way, shall not deviate more than a mile from the line of the Rail-way, or from the places assigned to the several works of the Company, in the map or plan and book of reference deposited as aforesaid, nor cut, carry, place, lay down, or convey the said Rail-way into, through, across, under or over any part of the lands or grounds shown and mentioned in such map or plan and book of reference as being required for such purpose, or as being within one mile of the said line and of the places assigned therein to the said works respectively, (save in such instances as are herein specially provided for,) without the consent of the party or parties who could, under the provisions of this Act, convey such lands.

Limit of deviation from the line in the map aforesaid.

Exception if parties consent.

X. And be it enacted, That the said Company may make, carry or place their said intended Rail-way and works into, across or upon the lands of any person or party whomsoever on the line aforesaid, or within the distance aforesaid from such line, although the name of such party be not entered in the said book of reference, through error, want of sufficient information, or any other cause, or although some other person or party be erroneously mentioned as the owner of or party entitled to convey, or interested in such lands.

As to errors in the book of reference.

XI. And be it enacted, That the lands or grounds to be taken or used for such intended Rail-way, and the ditches, drains and fences to separate the same from the adjoining lands, shall not exceed thirty yards in breadth, except in such places where the said intended Rail-way shall be raised more than five feet higher, or cut more than five feet deeper than the present surface of the land; and in such places where it shall be judged necessary to have off-sets for the locomotives or other engines and carriages using the said intended Rail-way, to be or pass each other, (and not above one hundred yards in breadth at any such place,) or where any houses, warehouses, wharves, toll-houses, watch-houses, weighing-beams, cranes, fixed engines or inclined planes, may be intended to be erected, or goods, wares or merchandize be delivered, (and then not more than two hundred yards in length, by one hundred and fifty yards in breadth,) without the consent of some party who can, under the provisions of this Act, convey such lands to the said Company, and the places at which such extra breadth is to be taken shall be shown on the said map or plan, so far as the same may be then ascertained,

Lands taken not to exceed thirty yards in breadth.

Exceptions.

Proviso as to
lands forming
part of Public
Roads, &c.

ascertained, but their not being so shown shall not prevent the Company from taking such extra breadth, provided it be taken upon the line shewn or within the distance aforesaid from such line ; Provided always, that no land shall be taken by the said Company from any public highway, but their right shall be limited to the laying down across the same, that is in the line of the said Rail-way, at whatever angle it may intersect such highway, the rails and other contrivances forming part of the said Rail-way, subject to the limitations mentioned in the fifth Section or any other part of this Act.

Company
may use the
Beaches, &c.
doing no
damage to the
navigation,
&c.

XII. And be it enacted, That it shall be lawful for the said Company to take, use, occupy and hold, but not to alienate so much of the public beach or beach-road or of the land covered with the waters of the River Saint Lawrence, River Richelieu, Pike River and Missisquoi Bay, as may be required for the wharves and other works of the said Rail-way, and other works which they are hereby authorized to construct, doing no damage to nor causing any other obstruction in the navigation of the said rivers or bay.

After any
lands have so
been set out,
all Bodies
Corporate, &c.
may sell to the
Company.

XIII. And be it enacted, That after any lands or grounds, shall be set out and ascertained in manner aforesaid, for making and completing the said Rail-way and other works, and other the purposes and conveniences hereinbefore mentioned, it shall and may be lawful for all bodies politic, corporate or collegiate, corporations aggregate or sole, communities, *grevés de substitution*, guardians, curators, executors, administrators and all other trustees or persons whatsoever, not only for and on behalf of themselves, their heirs and successors, but also for and on behalf of those whom they represent, whether infants, issue unborn, lunatics, idiots, femes-covert, or other persons or parties, who are or shall be seized, possessed of or interested in any lands or grounds which shall be so set out and ascertained as aforesaid, or any part thereof, to contract for, sell and convey unto the said Company, all or any part of such lands or grounds which shall under this Act be set out and ascertained as aforesaid ; and that all contracts, agreements, sales, conveyances and assurances so to be made, shall be valid and effectual in law to all intents and purposes whatsoever ; any law, statute, usage or custom to the contrary thereof in any wise notwithstanding ; and that all bodies politic, corporate or collegiate, or communities, and all persons whatsoever, so conveying as aforesaid, are hereby indemnified for what he, she or they or any of them shall respectively do by virtue of or in pursuance of this Act ; Provided always, that before the map or plan and book of reference shall be deposited as aforesaid, and before the lands required for the said Rail-way and works shall be set out and ascertained, it shall be lawful for any party who might under this Act convey any lands to the said Company, if the same were so set out and ascertained, to agree with the Company for the price to be paid for such lands if they shall be thereafter so set out and ascertained ; and such agreement shall be binding, and the price agreed upon shall be the price to be paid by the Company for the same lands, if they shall be afterwards so set out and ascertained within one year from the date of such agreement, and although such land may in the meantime have become the property of a third party ; and possession of the same may be taken and the agreement and price may be dealt with, as if such price had been fixed by an award of Arbitrators as hereinafter mentioned.

Proviso :
Parties may,
before lands
are set out,
agree with the
Company for
the price.

The compen-
sation to be an
Annual Rent

XIV. Provided always, and be it enacted, That any Body Politic, Community, Corporation or other party who cannot in common course of law sell or alienate any
lands

lands or grounds so set out and ascertained, shall agree on a fixed annual rent as an equivalent, and not upon a principal sum, to be paid for the lands or grounds so set out and ascertained as necessary for making the said Rail-way and other the purposes and conveniences relative thereto and connected therewith; and in case the amount of such rent shall not be fixed by voluntary agreement or otherwise, it shall be fixed in the manner hereafter described, and all proceedings shall in that case be regulated as hereinafter prescribed; and for the payment of the said annual rent, and every other annual rent agreed upon or ascertained, and to be paid by the said Company for the purchase of any lands, or for any part of the purchase money of any land which the vendor shall agree to leave in the hands of the said Company and the said Rail-way and the Tolls to be levied and collected thereon, shall be and are hereby made liable and chargeable in preference to all other claims or demands thereon whatsoever, the deed creating such charge and liability being duly registered.

in certain cases.

Privilege granted for securing Rent or purchase money.

XV. Provided always, and be it enacted, That whenever there shall be more than one party proprietor of any land or property *par indivis*, any agreement made in good faith between the said Company and any party or parties proprietor, or being together proprietors of one third or more of such land or property, as to the amount of compensation for the same or for any damages thereto, shall be binding as between the remaining proprietor or proprietors *par indivis* and the Company, and the proprietor or proprietors who have so agreed may deliver possession of such land or property to the Company, or empower them to enter upon the same, as the case may be.

As to agreements with proprietors *par indivis*.

XVI. And be it enacted, That as soon as the said map or plan and book of reference shall have been deposited as aforesaid, and notice of its being so deposited shall have been given during at least one calendar month in at least one newspaper published in the City of Montreal, in the English language, and in at least one newspaper there published in the French language, it shall be lawful for the said Company to apply to the several owners of or parties hereby empowered to convey the lands through which such Rail-way is intended to be carried, or which may suffer damage from the taking of materials, or the exercise of any of the powers granted to the said Company by this Act, and to agree with such owners or parties respectively, touching the compensation to be paid to them by the said Company for the purchase thereof, and for their respective damages, and to make such agreements and contracts with the said parties touching the said lands, or the compensation to be paid for the same, or for the damages, or as to the mode in which the said compensation shall be ascertained, as to such parties and the said Company shall seem expedient; and in case of disagreement between the said Company and the said owners or parties, or any of them, then all questions which shall arise between them and the said Company shall be settled as follows, that is to say:

The Company to apply to the owners of the lands, &c.

How the compensation shall be settled when the parties cannot agree.

The deposit of the map or plan and book of reference, and the notice of such deposit, given as aforesaid, shall be deemed a general notice to all such parties as aforesaid of the lands which will be required for the said Rail-way and works;

Legal effect of map and book of reference.

The Company shall serve a notice upon the opposite party, containing a description of the lands to be taken, or of the powers intended to be exercised with regard to any lands (describing them) a declaration that the Company are ready to pay some certain sum (or rent, as the case may be) as compensation for such lands or for the damages arising from the exercise of such power, and the name of a person whom they appoint

Notice to opposite party.

Certificate of a Surveyor.

as their Arbitrator if their offer be not accepted; and such notice shall be accompanied by the certificate of some sworn Surveyor for Lower Canada, disinterested in the matter, and not being the Arbitrator named in the notice, that the land (if the notice relate to the taking of land) is shewn on the map or plan deposited as aforesaid, as being required for the said Rail-way and works, or as being within the limits of deviation hereby allowed from the line of the said Rail-way, that he knows such land, or the amount of damages likely to arise from the exercise of such powers, and that the sum so offered is in his opinion a fair compensation for such land and for such damages as aforesaid;

If the party be absent or unknown.

If the opposite party be absent from the District of Montreal or be unknown to the said Company, then upon application to any Justice of the Court of Queen's Bench for the said District, accompanied by such certificate as aforesaid, and by an affidavit of some Officer of the Company, that such opposite party is so absent, or that after diligent inquiry the party on whom the notice ought to be served cannot be ascertained, such Justice shall order a notice as aforesaid (but without the certificate) to be inserted three times in the course of one calendar month in some newspaper published in the City of Montreal, in the English language, and in some newspaper there published in the French language;

Party not accepting the Company's offer, and not appointing an Arbitrator.

If within ten days after the service of such notice, or within one month after the first publication thereof as aforesaid, the opposite party shall not notify to the Company that he accepts the sum offered by the said Company, or notify to them the name of a person whom he appoints as Arbitrator, then any Justice of the Court of Queen's Bench may, on the application of the said Company, appoint some sworn Surveyor for Lower Canada, resident in the District of Montreal, to be sole Arbitrator for determining the compensation to be paid by the Company;

Opposite party appointing an Arbitrator.

If the opposite party shall within the time aforesaid notify to the said Company the name of the person such person shall appoint as Arbitrator, then the said two Arbitrators shall jointly appoint a third, or if they cannot agree upon a third, then any Justice of the Court of Queen's Bench shall, on the application of the said party or of the Company, (previous notice of at least one clear day having been given to the other party,) appoint a third Arbitrator;

Third Arbitrator.

The said Arbitrators, or any two of them or the sole Arbitrator, being sworn before some Commissioner for receiving Affidavits to be used in the Court of Queen's Bench, faithfully and impartially to perform the duties of their office, shall proceed to ascertain the compensation to be paid by the Company, in such way as they or he or a majority of them shall deem best, and the award of such Arbitrators, or of any two of them or of the sole Arbitrator shall be final and conclusive: Provided, that no such award shall be made or any official act done by such majority, except at a meeting held at a time and place of which the other Arbitrator shall have had at least one clear day's notice, or to which some meeting at which the third Arbitrator was present shall have been adjourned; but no notice to the Company or opposite party shall be necessary, but they shall be held sufficiently notified through the Arbitrator they shall have appointed, or whose appointment they shall have required;

Duties of Arbitrators after being sworn.

Proviso: Award not to be made except at proper meetings or times.

Costs how paid.

Provided always, that the award given by any sole Arbitrator shall never be for a less sum than that offered by the Company as aforesaid; and if in any case where three Arbitrators

Arbitrators shall have been appointed, the sum awarded be not greater than that offered by the Company, the costs of the Arbitration shall be borne by the opposite party and deducted from the compensation, otherwise they shall be borne by the Company, and in either case they may, if not agreed upon, be taxed by any Justice of the Court of Queen's Bench aforesaid ;

The Arbitrators, or a majority of them, or the sole Arbitrator, may examine on oath or solemn affirmation, the parties or such witnesses as shall voluntarily appear before him or them, and may administer such oath or affirmation, and any wilful false statement made by any witness under such oath or affirmation, shall be deemed wilful and currupt perjury, and punishable accordingly ;

Arbitrators may examine witnesses on oath.

False statement to be perjury.

The Justice of the Court of Queen's Bench by whom any third Arbitrator or sole Arbitrator shall be appointed, shall at the same time fix a day on or before which the award shall be made, and if the same be not made on or before such day, or some other day to which the time for making it shall have been prolonged, either by the consent of the parties or by the order of a Justice of the said Court, (as it may be for reasonable cause shewn, on the application of such sole Arbitrator or one of the Arbitrators after one clear day's notice to the others,) then the sum offered by the Company as aforesaid shall be the compensation to be paid by them ;

Time within which award must be made.

Time may be prolonged in certain cases.

If the party appointed by such Judge as third Arbitrator or sole Arbitrator shall die before the award be made, or shall be disqualified, or refuse or fail to act within a reasonable time, then, upon the application of either party, the Judge or any other Judge of the said Court being satisfied by affidavit or otherwise of such disqualification, refusal or failure, may, in his discretion, appoint another in his stead ; and, if the Arbitrator appointed by the said Company or by the opposite party shall die before the award shall be made, or shall leave the Province or become unable to act within a reasonable time, (such fact being ascertained to the satisfaction of some Judge of the said Court, as attested by the Certificate to that effect,) the said Company, or the opposite party (as the case may be) may appoint another in his stead, notifying the other Arbitrators of such appointment ; but no recommencement of repetition of prior proceedings shall be required ;

Arbitrator dying, &c.

The Company may desist from any such notice as aforesaid, and afterwards give new notice with regard to the same or other lands, to the same or any other party, but they shall in any such case be liable to the party first notified for all damages or costs by him incurred in consequence of such first notice and desistment ; and no change of owner after the notice shall affect the proceedings, but the party notified shall be still deemed the owner except as to the payment of the sum awarded ;

Company may desist paying costs.

It shall be no disqualification to the Surveyor or other person offered or appointed as Valuator or as Arbitrator, that he be professionally employed by the Company or by the opposite party, or that he have previously expressed an opinion as to the amount of compensation, or that he be related or of kin to any member of the Company, provided he be not himself personally interested in the amount of such compensation ; and no cause of disqualification shall be urged against any Arbitrator appointed by a Justice of the Court of Queen's Bench after his appointment, but shall be made before the same, and its validity or invalidity summarily determined by such Justice ; and no

Arbitrators not disqualified by certain circumstances.

Cause of disqualification when to be urged.

cause

cause of disqualification shall be urged against any Arbitrator appointed by the Company or by the opposite party, after the appointment of a third Arbitrator; and the validity or invalidity of any cause of disqualification urged against any such Arbitrator before the appointment of a third Arbitrator, shall be summarily determined by any Justice of the said Court on the application of either party, after one clear day's notice to the other, and if such cause be determined to be valid, the appointment shall be null, and the party offering the person so adjudged to be disqualified shall be held to have appointed no Arbitrator;

Awards not to be avoided by mere want of form, &c.

No award made as aforesaid shall be invalidated by any want of form or other technical objection, if the requirements of this Act shall have been complied with, and if the award shall state clearly the sum awarded, and the lands and other property, right or thing for which such sum is to be the compensation, nor shall it be necessary that the party or parties to whom the sum is to be paid be named in the award.

Possession may be taken on payment, tender or deposit of the sum awarded.

XVII. And be it enacted, That upon payment or legal tender of the compensation or annual rent so awarded, agreed upon or determined as aforesaid to the party entitled to receive the same, or upon the deposit of the amount of such compensation in the manner hereinafter mentioned, the award or agreement shall vest in the said Company the power forthwith to take possession of the lands or to exercise the right or to do the thing for which such compensation or annual rent shall have been awarded or agreed upon; and if any resistance or forcible opposition shall be made by any person or party to their so doing, any Justice of the Court of Queen's Bench may, on proof to his satisfaction that the requirements of this Act have been complied with, issue his warrant to the Sheriff of the District, or to any Bailiff of the Court (as in his discretion may be most suitable,) to put the said Company in possession, and to put down such resistance or opposition, which such Sheriff or Bailiff, taking with him sufficient assistance, shall accordingly do; Provided also, that such warrant of possession shall also be granted by any such Justice upon proof by affidavit to his satisfaction that immediate possession of the land, or power to do the thing in question is necessary to the carrying on of the works of the said Company, the adverse party being summoned by one clear day's notice to appear before such Judge, and the Company giving such security as the said Judge shall direct, to pay the sum to be awarded, with interest from the day on which the warrant shall be granted and all lawful costs, such security not being for less than twice the sum offered by the Company in the notice to such adverse party.

Warrant of possession in case of resistance.

Proviso if possession be required before the award.

As to incumbrances or claims to or upon the land taken.

Compensation to stand in the place of the land.

Proviso. Proceedings if the Company have reason to

XVIII. And be it enacted, That the compensation awarded as aforesaid or agreed upon by the said Company and any party who might under this Act validly convey the lands, or then in lawful possession thereof as proprietor, for any lands which might be lawfully taken under this Act without the consent of the proprietor, shall stand in the stead of such land; and any claim to, or hypothec or incumbrance upon the said land or any portion thereof, shall, as against the said Company, be converted into a claim to the said compensation, or to a like proportion thereof, and they shall be responsible accordingly whenever they shall have paid such compensation or any part thereof to a party not entitled to receive the same, saving always their recourse against such party; Provided always, that if the said Company shall have reason to fear any such claims, hypothecs or incumbrances, or if any party to whom the compensation or annual rent or any part thereof shall be payable shall refuse to execute the

the proper conveyance and guarantee, or if the party entitled to claim the same cannot be found or be unknown to the Company, or if for any other reason the Company shall deem it advisable, it shall be lawful for them to pay such compensation into the hands of the Prothonotary of the said Court of Queen's Bench, with the interest thereon for six months, and to deliver to the said Prothonotary an authentic copy of the conveyance, or of the award or agreement if there be no conveyance, and such award or agreement shall thereafter be deemed to be the title of the said Company to the land therein mentioned, and proceedings shall thereupon be had for the confirmation of the title of the said Company in like manner as in other cases of confirmation of title, except that in addition to the usual contents of the notice, the Prothonotary shall state that the title of the Company (that is the conveyance, agreement or award) is under this Act, and shall call upon all persons entitled to or to any part of the land, or representing or being the husbands of any parties so entitled, to file their oppositions for their claims to the compensation or any part thereof, and all such oppositions shall be received and adjudged upon by the Court, and the judgment of confirmation shall for ever bar all claims to the lands or any part thereof (including dower not yet open,) as well as all hypothecs or incumbrances upon the same; and the Court shall make such order for the distribution, payment or investment of the compensation, and for the securing of the rights of all parties interested as to right and justice, according to the provisions of this Act and to law shall appertain; and the costs of the said proceedings or any part thereof shall be paid by the said Company or by any other party, as the Court shall deem it equitable to order; and if judgment of confirmation be obtained in less than six months from the payment of the compensation to the Prothonotary, the Court shall direct a proportionate part of the interest to be returned to the Company, and if from any error, fault or neglect of the Company it shall not be obtained until after the six months are expired, the Court shall order the Company to pay to the Prothonotary the interest for such further period as may be right.

fear incumbrances or claims.

Costs and interest how paid, &c.

XIX. Provided always, and be it enacted, That with regard to any lands which could not be taken without the consent of some party entitled under this Act to convey the same, or in any case in which the requirements of this Act shall not have been complied with, and in all cases where land shall have been taken or damage shall have been done by the Company without previously complying with the requirements of this Act, the rights of the Company and of other parties shall be governed by the ordinary rules of Law.

Proviso as to lands which cannot be taken without the consent, &c.

XX. And be it enacted, That all suits for indemnity for any damage or injury sustained by reason of the powers and authority given by this Act, shall be brought within six calendar months next after the time of such supposed damage sustained, or in case there shall be a continuation of damage, then within six calendar months next after the doing or committing such damage shall cease and not afterwards, and the defendant or defendants shall and may plead the general issue and give this Act and the special matter in evidence at any trial to be had thereupon, and may aver that the same was done in pursuance and by authority of this Act.

Applications for indemnity to be made within a certain time.

General issue.

XXI. And be it enacted, That if any person shall by any means or in any manner or way whatsoever, obstruct or interrupt the free use of the said Rail-way or the carriages, engines or other works incidental or relative thereto or connected therewith, such person shall for every such offence incur a forfeiture or penalty of not less than five

Penalty for obstructing use of the Rail-way.

How recoverable and applicable.

five pounds, nor exceeding ten pounds currency; one half of which penalty and forfeiture to be recovered before one or more Justices of the Peace for the District, shall go to the prosecutor or informer, and the other half to Her Majesty, Her Heirs and Successors, and shall be paid into the hands of the Receiver General, and be applied to the public uses of this Province and the support of the Government thereof.

Punishment of persons damaging the Rail-road or works.

XXII. And be it enacted, That if any person or persons shall wilfully and maliciously and to the prejudice of the said Rail-way authorized to be made by this Act, break, throw down, damage or destroy the same or any part thereof, or any of the watch-houses, warehouses, toll-houses, watch-houses, weigh-beams, cranes, carriages, engines, inclined planes, machines or other works or devices incidental and relative thereto or connected therewith, or do any other wilful hurt or mischief, or wilfully or maliciously obstruct or interrupt the free use of the said Rail-way or works, or shall obstruct, hinder or prevent the carrying on, completing, supporting and maintaining the said intended Rail-way or works, such person or persons shall be adjudged guilty of felony, and the Court by and before whom such person or persons shall be tried and convicted shall have power and authority to cause such person or persons to be punished in like manner as felons are directed to be punished by the laws in force in this Province, or in mitigation thereof to award such sentence as the law directs in cases of simple larceny, as to such Court shall seem fitting.

Company to contribute among themselves the necessary sums for carrying on their undertaking.

Proviso. Books of subscription to be opened.

XXIII. And to the end that the said Company may be enabled to carry on so useful an undertaking—Be it enacted, That it shall and may be lawful for the said Company and their successors, to raise and contribute among themselves, in such proportions as to them shall seem meet and convenient, a competent sum of money for the making and completing the said Rail-way and all such other works, matters and conveniences as may be found necessary, for making, effecting, preserving, improving, completing, maintaining and using the said Rail-way and other works: Provided always, that the before mentioned Honorable Robert Jones, Jason C. Peirce, P. P. Russell, James Taylor, Charles Seymour, H. H. Whitney, A. L. Taylor, H. Stephens, Edwin Atwater, John Young, Nelson Mott, Ed. Bourgeois, Henry Larocque and Robert McKay, (being the Provisional Committee named for that purpose,) or a majority of them, shall cause books of subscription to be opened at the City of Montreal, at such places therein, and at such other places as they shall from time to time appoint, until the first meeting of proprietors hereinafter provided for, for receiving the signatures of persons willing to become subscribers to the said undertaking, and for this purpose they shall give public notice in some newspaper published in the District of Montreal, in the English language, and in some newspaper there published in the French language, of the time and place at which such books will be opened and ready for receiving signatures as aforesaid, and of the persons by them authorized to receive such subscriptions; and every person who or whose Attorney shall write his or her signature in such book as a subscriber to the said undertaking shall thereby become a member of the said Corporation, and shall have the same rights and privileges as such as are hereby conferred on the several persons who are herein mentioned by name as members of the said Corporation: Provided always, that the sums so raised shall not exceed the sum of one hundred thousand pounds currency of this Province, in the whole, except as hereinafter mentioned, and that the same be divided into such numbers of shares as hereinafter directed, at a price of twenty-five pounds currency aforesaid, per share; and the money so to be raised is hereby

Proviso. Capital limited, and divided into shares of £25 each.

hereby directed and appointed to be laid out and applied in the first place for and towards the payment, discharge and satisfaction of all fees and disbursements for obtaining and passing this Act, and for making the surveys, plans and estimates incident thereto, and all other expenses relating thereto, and all the rest, residue and remainder of such money for and towards making, completing and maintaining the said Rail-way, and other the purposes of this Act, and to no other use, intent or purpose whatever.

Order of charges on the Capital.

XXIV. And be it enacted, That the said sum of one hundred thousand pounds currency, or such part thereof as shall be raised by the several persons hereinbefore named, or by such other person or persons who shall or may at any time become a subscriber or subscribers to the said Rail-way, shall be divided and distinguished into four thousand equal parts or shares, at a price not exceeding twenty-five pounds currency aforesaid per share; and that the said shares shall be deemed personal estate, and shall be and are hereby vested in the said several subscribers and their several and respective heirs, executors, curators, administrators and assigns, to their and every of their proper use and behoof, proportionally to the sum they and each of them shall severally subscribe and pay thereunto; and all and every the bodies politic, corporate or collegiate, or communities, and all and every person or persons, their several and respective heirs, successors, executors, curators, administrators and assigns, who shall severally subscribe and pay the sum of twenty-five pounds, or such sum or sums as shall be demanded in lieu thereof, towards carrying on and completing the said Rail-way, shall be entitled to and receive after the said Rail-way shall be completed, the entire and net distribution of the profits and advantages that shall and may arise and accrue by virtue of the sum and sums of money to be raised, recovered or received by the authority of this Act, in proportion to the number of shares so held; and every body politic, corporate or collegiate or community, person or persons, having such property or share in the said undertaking, and so in proportion as aforesaid, shall bear and pay an adequate and proportional sum of money, towards carrying on the said undertaking in manner by this Act directed and appointed.

The sum raised to be divided into shares.

To be personal property and transferable.

Rights of Shareholders to profits, &c.

Their liabilities.

XXV. And in order to induce the immediate payment of the Capital Stock of the said Company, and thereby to ensure the completion of the Rail-way with the least possible delay—Be it enacted, That the Company may allow and pay, either yearly or half-yearly, interest not exceeding the legal rate on all moneys invested in the Stock of the said Company, and duly paid up: Provided always, that such payment of interest shall utterly cease from the time when the Rail-way shall be completed, and that until it shall be completed, no dividend or profits shall be paid to the Shareholders.

Company may allow interest on Stock paid up.

Proviso.

XXVI. And be it enacted, That in case the said sum of one hundred thousand pounds hereinbefore authorized to be raised, shall be found insufficient for the purposes of this Act, then and in such case it shall be lawful for the said Company to raise and contribute amongst themselves in manner and form aforesaid, and in such shares and proportions as to them shall seem meet, or by the admission of new subscribers, a further or other sum of money for completing and perfecting the said intended Rail-way, and other works or conveniences incidental or relative thereto, or hereby authorized, not exceeding the sum of forty thousand pounds currency aforesaid; and every subscriber towards raising such further or other sum of money shall be a proprietor in the said undertaking, and have a like right of voting in respect of his, her

If the Capital be not sufficient, the Company may raise a further sum for completing their undertaking.

or

or their shares in the said additional sum so to be raised, and shall also be liable to such obligations, and stand interested in all the profits and powers of the said undertaking in proportion to the sum he, she or they shall or may subscribe thereto, as generally and extensively as if such other or further sum had been originally raised as a part of the said first sum of one hundred thousand pounds; any thing herein contained to the contrary notwithstanding.

Company may borrow a sum not exceeding at one time £50,000.

XXVII. And be it enacted, That the said Company may from time to time lawfully borrow either in this Province or elsewhere, such sum or sums of money, not exceeding at any one time the sum of fifty thousand pounds, currency, as they may find expedient, and at such rate of interest not exceeding six per cent. per annum, as they may think proper; and may make the bonds, debentures or other securities they shall grant for the sums so borrowed payable either in currency or in sterling, and at such place or places within or without this Province, as they may deem advisable, and may hypothecate and pledge the lands, tolls, revenues and other property of the said Company for the due payment of the said sums and the interest thereon.

And grant hypothec on their property.

Votes how proportioned to shares.

XXVIII. And be it enacted, That the number of votes to which each proprietor of shares in the said undertaking shall be entitled on every occasion when, in conformity to the provisions of this Act, the votes of the Members of the said Company are to be given, shall be in the proportion to the number of shares held by him, that is to say, one vote for each share less than fifty; Provided always, that no one proprietor as aforesaid, shall have more than fifty votes; and all proprietors of shares, whether resident in this Province or elsewhere, may vote by proxy, if he, she or they shall see fit, provided that such proxy do produce from his constituent or constituents an appointment in writing in the words or to the effect following, that is to say:

Proviso.

Proprietors may vote by proxy.

Form of appointment of proxy.

“ I, _____ of _____ one of the proprietors of
 “ do hereby nominate, constitute and appoint
 “ of _____ to be my proxy, in my name, and in my absence, to vote or
 “ give my assent or dissent to any business, matter or thing relating to the said
 “ undertaking, or any of them, in such manner as he the said
 “ shall think proper, according to his opinion and judgment, for the benefit of the
 “ said undertaking, or any thing appertaining thereto.

“ In witness whereof, I have hereunto set my hand and seal, the
 “ day of _____ in the year _____

Questions to be decided by majority of votes.

And such vote or votes by proxy shall be as valid as if such principal or principals had voted in person; and whatever question, election of proper officers, or matter or things shall be proposed, discussed or considered in any public meeting of the Proprietors to be held in virtue of this Act, shall be determined by the majority of votes and proxies then present and so given as aforesaid, and all decisions and acts of any such majority shall bind the said Company, and be deemed the decisions and acts of the said Company.

None but a British subject to be President or Treasurer.

XXIX. Provided always, and be it enacted, That no proprietor who shall not be a natural born subject of Her Majesty, or a subject of Her Majesty naturalized under an Act of the British Parliament, or an Act of the Parliament of this Province, shall be elected President or Treasurer of the said Company.

XXX. And be it enacted, That no Shareholder in the said Company of Proprietors, shall be in any manner whatsoever liable for or charged with any debt or demand due by the said Company, beyond the payment of the extent of his, her or their share in the capital of the said Company not paid up.

Non-liability
of Share-
holders.

XXXI. And be it enacted, That the first General Meeting of the Proprietors for putting this Act in execution, may be held at Saint Johns, whenever four thousand shares in the said undertaking shall have been subscribed for, provided that public notice be given during one week in some newspaper published in the English language, and in some newspaper published in the French language, in the District of Montreal, and signed by at least five subscribers to the said undertaking, holding among them at least one hundred shares, and at such said General Meeting the Proprietors assembled, with such proxies as shall be present, shall choose nine persons, being each a Proprietor of not less than five shares in the said undertaking, to be Directors of the said Company, in such manner as hereinafter directed, and shall also proceed to pass such Rules and Regulations and By-laws as shall seem to them fit, provided they be not inconsistent with this Act.

First General
Meeting.

To elect a
Board of nine
Directors.

XXXII. And be it enacted, That the Directors first appointed (or those appointed in their stead in case of vacancy) shall remain in office until the election of Directors in the month of January, one thousand eight hundred and fifty, and that in the month of January, in the said year, and in each year thereafter, and on such day of the month as shall be appointed by any By-law, an Annual General Meeting of the said Proprietors shall be held to choose Directors in the room of those whose office may at that time become vacant, and generally to transact the business of the Company; but if at any time it shall appear to any five or more of such Proprietors, holding together one hundred shares at least, that for more effectually putting this Act in execution, a Special General Meeting of Proprietors is necessary to be held, it shall be lawful for such five or more of them to cause fifteen days' notice at least to be given thereof in two public newspapers as aforesaid, or in such manner as the Company shall by any By-law direct or appoint, specifying in such notice the time and place, and the reason and intention of such Special Meetings respectively; and the Proprietors are hereby authorized to meet pursuant to such notices, and proceed to the execution of the powers by this Act given them, with respect to the matters so specified only; and all such acts of the Proprietors or the majority of them, at such Special Meetings assembled, such majority not having either as principals or proxies less than one hundred shares, shall be as valid to all intents and purposes as if the same were done at Annual Meetings; Provided always, that it shall and may be lawful for the said Proprietors in case of the death, absence, resignation or removal of any person elected a Director, to manage the affairs of the said Company in manner aforesaid, to appoint another or others in the room or stead of those of the Directors who may die or be absent or resign, or be removed as aforesaid; any thing in this Act to the contrary notwithstanding; but if such appointment be not made, such death, absence or resignation shall not invalidate the acts of the remaining Directors.

In each year,
a Board of
Directors to be
elected.

Special Meet-
ings of Share-
holders how
called.

Proviso as to
vacancies
among the
Directors.

XXXIII. And be it enacted, That at each of the said Annual Meetings of Proprietors, three of the said nine Directors shall retire in rotation, the order of retirement of the said first elected nine Directors being decided by lot, but the Directors then or at any subsequent time retiring shall be eligible for re-election; Provided always, that no

Three Direc-
tors to retire
annually.

Proviso,

such

such retirement shall have effect unless the Proprietors at such Annual Meeting proceed to fill up the vacancies thus occurring in the Direction.

Directors to elect a President—

XXXIV. And be it enacted, That the Directors shall at their first (or at some other) meeting after the day appointed for the Annual General Meeting in each year, elect one of their number to be the President of the said Company, who shall always (when present) be the Chairman of and preside at all meetings of the Directors, and shall hold his office until he shall cease to be a Director, or until another President shall be elected in his stead, and the said Directors may, in like manner, elect a Vice-President, who shall act as Chairman in the absence of the President.

and Vice-President.

Five Directors to be a Quorum for business. Proviso.

XXXV. And be it enacted, That any meeting of the said Directors, at which not less than five Directors shall be present, shall be competent to use and exercise all and any of the powers hereby vested in the said Directors of the said Company; Provided always, that no one Director, though he may be a Proprietor of many shares, shall have more than one vote at any meeting of the Directors, except the President or Vice-President when acting as Chairman, or any temporary Chairman who in case of the absence of the President or Vice-President, may be chosen by the Directors present, either of whom when presiding at a meeting of the Directors shall, in case of a division of equal numbers, have the casting vote, although he may have given one vote before: And provided also, that such Directors shall from time to time be subject to the examination and control of the said Annual and Special Meetings of the said Proprietors as aforesaid, and shall pay due obedience to all By-laws of the Company, and to such orders and directions in and about the premises, as they shall from time to time receive from the said Proprietors at such Annual or Special Meetings; such orders and directions not being contrary to any express directions or provisions in this Act contained; and provided also, that the act of any majority of a *quorum* of the Directors present at any meeting regularly held shall be deemed the act of the Directors.

Casting vote of Chairman.

Proviso: Directors subject to the control of Meetings.

Proviso.

No Officer to be a Director.

XXXVI. Provided always, and be it enacted, That no person holding any office, place or employment, or being concerned or interested in any contract or contracts under the said Company, shall be capable of being chosen a Director or of holding the office of Director.

Annual Meeting to appoint three Auditors.

XXXVII. And be it enacted, That every such Annual Meeting shall have power to appoint not exceeding three Auditors to audit all accounts of money laid out and disbursed on account of the said undertaking, by the Treasurer, Receiver or Receivers, and other Officer or Officers to be by the Directors appointed, or by any person or persons whatsoever, employed by or concerned for or under them, in and about the said undertaking; and to that end the said Auditors shall have power to adjourn themselves over from time to time and from place to place, as shall be thought convenient by them; and the said Directors chosen under the authority of this Act, shall have power from time to time to make such call or calls of money from the proprietors of the said Railway and other works to defray the expenses of, or to carry on the same, as they from time to time shall find wanting and necessary for these purposes; Provided, however, that no call do exceed the sum of five pounds current money of this Province, for every share of twenty-five pounds; and provided also, that no calls be made, but at the distance of at least

Power of the Directors to make calls.

Proviso.

Calls how to be made.

least one calender month from each other ; and such Directors shall have full power and authority to direct and manage all and every the affairs of the said Company, as well in contracting for and purchasing lands, rights and materials for the use of the said Company, as in employing, ordering and directing the work and workmen, and in placing and removing under officers, clerks, servants and agents, and in making all contracts and bargains touching the said undertaking, and to affix or authorize any person to affix the common seal of the Company to any Act, Deed, By-law, Notice or other Document bearing the common seal of the Company, and signed by the President, Vice-President or any Director, or by order of the Directors, shall be deemed the act of the Directors and of the Company ; nor shall the authority of the signer of any document purporting to be so signed and sealed, to sign the same and affix the said seal thereto, be liable to be called in question by any party except the Company ; and the Directors shall have such other and further powers as, being vested in the Company by this Act, shall be conferred upon the said Directors by the By-laws of the Company

Other powers of Directors.

XXXVIII. And be it enacted, That the owner or owners of one or more shares in the said undertaking shall pay his, her or their share and proportion of the moneys to be called for as aforesaid, to such person or persons, and at such time and place as the said Directors shall from time to time appoint and direct, of which one month's notice at least shall be given in two newspapers as aforesaid, or in such other manner as the said proprietors or their successors shall by any By-law direct and appoint ; and if any person or persons shall neglect or refuse to pay his, her or their rateable or proportionable part or share of the said money, to be called for as aforesaid at the time and place so appointed, he, she or they, neglecting or refusing, shall forfeit a sum not exceeding the rate of five pounds for every one hundred pounds of his, her or their respective share or shares in the said undertaking ; and in case such person or persons shall neglect to pay his, her or their rateable calls as aforesaid, for the space of two calendar months after the time appointed for the payment thereof as aforesaid, then he, she or they shall forfeit his, her or their respective share or shares in the said undertaking, and all the profits and benefits thereof ; all which forfeitures shall go to the rest of the proprietors of the said undertaking, their successors and assigns, for the benefit of the said proprietors, in proportion to their respective interests ; and in every such case such calls shall be payable with interest from the time the same shall be so appointed to be paid until the payment thereof.

Shareholders bound to pay calls.

Penalty for neglect.

Forfeiture for not paying calls.

XXXIX. Provided always, and be it enacted, That no advantage shall be taken of the forfeiture of any share or shares of the said undertaking unless the same shall be declared to be forfeited at some Annual or Special Meeting of the said Company assembled after such forfeiture shall be incurred ; and every such forfeiture shall be an indemnification to and for every proprietor so forfeiting against all action and actions, suits or prosecutions whatever, to be commenced or prosecuted for any breach of contract or other agreement between such proprietor and the other proprietors, with regard to carrying on the said Rail-way and undertaking.

Forfeiture must be declared at some General Meeting.

XL. And be it enacted, That the said Company shall always have power and authority at any General Meeting assembled as aforesaid, to remove any person or persons chosen upon such Board of Directors as aforesaid, and to elect others to be Directors in the room of those who shall die, resign or be removed, and to remove any other officer or officers under them, and to revoke, alter, amend or change any of the

Company may remove any Director, and elect another in case of death, &c. And so of Officers.

By-laws

And make
By-laws.

Penalties
limited.

By-laws to be
in writing and
published.

Certified co-
pies to be
evidence.

Proviso.

Proprietors
may dispose of
their Shares
and how.

Transfer to be
notified to the
Company.

Form of the
transfer of
Shares.

By-laws or orders prescribed with regard to their proceedings amongst themselves, (the method of calling general meetings, and their time and place of assembling, and manner of voting, and of appointing Directors only excepted,) and shall have power to make such new Rules, By-laws and orders, for the good government of the said Company and their servants, agents and workmen, for the good and orderly making, maintaining and using the said Rail-way, and all other works connected therewith or belonging thereto, or hereby authorized, and for the well governing of all persons whatsoever, travelling upon or using the said Rail-way and other works, or transporting any goods, wares, merchandize and other commodities thereon; and by such By-laws to impose and inflict such fines and forfeitures upon the persons guilty of a breach of such By-laws or orders as to such General Meeting shall seem meet, not exceeding the sum of twenty-five pounds current money of this Province, for every offence; such fines or forfeitures to be levied and recovered by such ways and means as are hereinafter mentioned; which said By-laws and orders shall be put into writing, under the common seal of the said Company, and shall be kept in the office of the Company, and a printed or written copy of so much of them as may relate to or affect any party other than the members or servants of the Company, shall be affixed openly in the office of the said Company and in all and every of the places where Tolls are to be gathered, and in like manner as often as any change or alteration shall be made to the same; and the said By-laws and orders so made and affixed as aforesaid, shall be binding upon and observed by all parties, and shall be sufficient in any Court of Law or Equity, to justify all persons who shall act under the same, and any copy of the said By-laws, or any of them certified as correct by the President, or some person authorized by the Directors to give such certificate, and bearing the common seal of the Company, shall be deemed authentic, and shall be received as evidence of such By-law in any Court without further proof: Provided always that no By-law, by which it is intended that any other person than the members, officers and servants of the Company shall be affected or bound, shall have any force or effect unless or until it shall have been submitted to and approved and sanctioned by the Governor in Council.

XLI. And be it enacted, That it shall and may be lawful to and for the several proprietors of the said Rail-way or undertaking to sell or dispose of his, her or their share or shares therein, subject to the rules and conditions herein mentioned; and every purchaser shall have a duplicate of the deed of bargain and sale and conveyance made unto him or her, and one part of such deed, duly executed by seller and purchaser, shall be delivered to the said Directors or their clerk for the time being, to be filed and kept for the use of the said Company, and an entry thereof shall be made in a book or books to be kept by the said clerk for that purpose, for which no more than one shilling and three pence shall be paid, and the said clerk is hereby required to make such entry accordingly; and until such duplicate of such deed shall be so delivered to the said Directors or their clerk, and filed and entered as above directed, such purchaser or purchasers shall have no part or share of the profits of the said undertaking, nor any interest for the said share or shares paid unto him, her or them, nor any vote as a proprietor or proprietors.

XLII. And be it enacted, That the sale of the said shares shall be in the form following, varying the names and descriptions of the contracting parties as the case may require:

“ I, A. B., in consideration of the sum of
 “ paid to me by C. D., of do hereby bargain,
 “ sell and transfer to the said C. D. share
 “ (or shares) of the stock of the , to hold
 “ to him the said C. D., his heirs, executors, curators, administrators and assigns,
 “ subject to the same rules and orders, and on the same conditions that I held the same
 “ immediately before the execution hereof :

The form.

“ And I, the said C. D., do hereby agree to accept of the said
 “ share, (or shares) subject to
 “ the same rules, orders and conditions. Witness our hands and seals, this
 “ day of in the year .”

Provided always, that no such transfer of any share shall be valid until all calls or instalments then due thereon shall have been paid up.

Proviso.

XLIII. And be it enacted, That it shall and may be lawful to and for the said Directors, and they are hereby authorized from time to time to nominate and appoint a Treasurer or Treasurers, and a Clerk or Clerks to the said Company, taking such security for the due execution of their respective offices as the said Directors shall think proper ; and such clerk or clerks to the said Company shall in a proper book or books enter and keep a true and perfect account of the names and places of abode of the several proprietors of the said Rail-way and other works, and of the several persons who shall from time to time become owners and proprietors of or entitled to any share or shares therein, and of all the other acts, proceedings and transactions of the said Company and of the Directors for the time being, by virtue of and under the authority of this Act.

Directors may appoint a Treasurer and Clerks, &c.

Duty of the Clerk.

XLIV. And be it enacted, That it shall and may be lawful to and for the said Company, from time to time and at all times hereafter, to ask, demand, take and recover, to and for their own proper use and behoof, for all goods, wares, merchandize and commodities of whatever description, transported upon the said Rail-way, such tolls as they may deem expedient ; which said tolls shall be from time to time fixed and regulated by By-laws of the Company or by the Directors if thereunto authorized by the said By-laws, and shall be paid to such person or persons, and at such place or places near to the said Rail-way, in such manner and under such regulations as the said Company or the said Directors shall direct and appoint ; and in case of denial or neglect of payment for any such rates or dues or any part thereof on demand, to the person or persons appointed to receive the same as aforesaid, the said Company may sue for and recover the same in any Court having competent jurisdiction, or the person or persons to whom the said rates or dues ought to be paid, may, and he is and they are hereby empowered to seize and detain such goods, wares, merchandize or other commodities for or in respect whereof such rates or dues ought to be paid, and detain the same until payment thereof ; and in the meantime the said goods, wares, merchandize or other commodities shall be at the risk of the owner or owners thereof ; and the said Company or the said Directors shall have full power, from time to time at any general meeting, to lower or reduce all or any of the said tolls, and again to raise the same as often as it shall be deemed necessary for the interests of the said undertaking : Provided always, that the same tolls shall be payable at the same time and under the

Company may establish Tolls for goods, &c.

How recovered if not duly paid.

Seizure of goods, &c.

Tolls may be lowered and raised again.

Proviso, against monopoly.

same circumstances upon all goods and upon all persons, so that no undue advantage, privilege or monopoly may be afforded to any person or class of persons by any By-law relating to the said tolls.

Account of the profits of the said undertaking to be annually made up at certain periods.

XLV. And in order to ascertain the amount of the clear profits of the said undertaking—Be it enacted, That the said Company, or the Directors for managing the affairs of the said Company, shall and they are hereby required to cause a true, exact and particular account to be kept and annually made up and balanced on the first Monday of the month of February in each and every year, of the money collected and received by the said Company, or by the Directors and Treasurer of the said Company or otherwise, for the use of the said Company by virtue of this Act, and of the charges and expenses attending the erecting, making, supporting, maintaining and carrying on their works, and of all other receipts and expenditure of the said Company or the said Directors; and at the general meetings of the Proprietors of the said undertaking, to be from time to time holden as aforesaid, a dividend shall be made out of the clear profits of the said undertaking, unless such meetings shall declare otherwise; and such dividend shall be at and after the rate of so much per share upon the several shares held by the Proprietors, in the Joint-Stock of the said Company, as such meeting or meetings shall think fit to appoint or determine: Provided always, that no dividend shall be made whereby the capital of the said Company shall be in any degree reduced or impaired, nor shall any dividend be paid in respect of any share after a day appointed for payment of any call for money in respect thereof until such call shall have been paid.

Dividends to be made.

Proviso.
Capital not to be impaired.

When profits exceed 10 per cent. half the overplus to be paid to Her Majesty.

XLVI. Provided always, and be it enacted, That whenever the said Company shall have declared for the then preceding year a dividend or dividends exceeding ten per cent. currency on each and every share in the said undertaking, the said Company shall and they are hereby directed and required to pay over, as a duty to Her Majesty, Her Heirs and Successors, recoverable as other duties are, one moiety of the net income from the said Rail-way accruing thereafter over and above the said ten per cent. per share first payable to the said Proprietors: Provided always, that no such duty shall be payable until the dividends declared shall on the whole have amounted to ten per cent. per annum on the paid up stock of the said Company from the time it was paid up; this provision being made as an allowance to the Company for the loss of interest on the money expended before the work shall produce any income.

Proviso.

Fractions in miles and weight of goods, &c., how regulated.

XLVII. Provided always, and be it enacted, That in all cases where there shall be a fraction in the distance which goods, wares, merchandize or other commodities or passengers shall be conveyed or transported on the said Rail-way, such fraction shall, in ascertaining the said rates, be deemed and considered as a whole mile, and that in all cases where there shall be the fraction of a ton in the weight of any such goods, wares, merchandize or other commodities, a proportion of the said rates shall be demanded and taken by the said Company to the number of quarters of a ton contained therein; and in all cases where there shall be a fraction of a quarter of a ton, such fraction shall be deemed and considered as a whole quarter of a ton.

Directors may make rates for the carriage of parcels.

XLVIII. Provided always, and be it enacted, That it shall and may be lawful to and for the Directors of the said Company from time to time to make such regulations for ascertaining and fixing the price or sum or sums of money to be charged or taken for the carriage of any parcel not exceeding one hundred and twenty pounds weight as aforesaid,

aforesaid, upon the said Rail-way or any part thereof, as to them shall seem fit and reasonable; and that the said Company shall from time to time print and stick up, or cause to be printed and stuck up in their office and in all and every of the places where the tolls are to be collected, in some conspicuous place there, a printed board or paper ascertaining all the tolls payable under this Act, and particularizing the price or sum or sums of money to be charged or taken for the carriage of such parcels not exceeding one hundred and twenty pounds weight as aforesaid.

Tables of
Tolls to be
publicly affix-
ed.

XLIX. Provided always, and be it enacted, That the said Company shall at all times when thereunto required by Her Majesty's Deputy Post Master General, the Commander of the Forces, or any person having the superintendence or command of any Police Force, and with the whole resources of the Company if required, carry Her Majesty's Mail, Her Majesty's Naval or Military Forces or Militia, and all artillery, ammunition, provisions or other stores for their use, and all Policemen, Constables and others travelling on Her Majesty's Service, on their said Rail-way, on such terms and conditions and under such regulations as the said Company and the said Deputy Post Master General, the Commander of the Forces, or person in command of any Police Force, respectively, shall agree upon, or if they cannot agree, then on such terms and conditions and under such regulations as the Governor or person administering the Government shall in Council make; and the Company may be required to provide a separate carriage for the Mail and the person or persons in charge thereof, and the said Company shall at any time when thereunto required by the Governor of this Province or any person thereunto authorized by him, place any Electric Telegraph and the apparatus and operators they may have, at the exclusive use of the Government, receiving thereafter reasonable compensation for such service: And provided also, that any further enactments which the Legislature of this Province may hereafter deem it expedient to make with regard to the carriage of the said Mail or Her Majesty's Forces and other persons and articles as aforesaid, or the rates to be paid for carrying the same, or in any way respecting the use of any Electric Telegraph or other service to be rendered by the Company to the Government, shall not be deemed an infringement of the privileges intended to be conferred by this Act.

Provision as to
the carriage of
Her Majesty's
Mail, Soldiers,
&c.

Proviso ;
The Legisla-
ture may make
further provi-
sion.

L. And be it enacted, That the said Company shall within six calendar months after any lands shall be taken for the use of the said Rail-way or undertaking, and if thereunto required by the proprietors of the adjoining lands respectively, but not otherwise, divide and separate, and keep constantly divided and separated, the lands so taken from the lands or grounds adjoining thereto, with a sufficient post and rail, hedge, ditch, bank or other fence, sufficient to keep off hogs, sheep and cattle, to be set and made on the lands or grounds which shall be purchased by, conveyed to or vested in the said Company as aforesaid, and shall, at their own cost and charges, from time to time, maintain, support and keep in sufficient repair the said posts, rails, hedges, ditches, trenches, banks and other fences so set up and made as aforesaid.

Company to
divide the land
taken from the
lands adjoining
if required.

LI. And be it enacted, That as soon as conveniently may be after the said Rail-way shall be completed, the said Company shall cause the same to be measured, and stones or posts, with proper inscriptions on the sides thereof denoting the distance, to be erected, and for ever after maintained, at the distance of every mile from each other.

Rail-way to be
measured and
miles marked.

LII. And be it enacted, That the several persons who shall subscribe to advance any money for and towards making and maintaining the said Rail-way and other works connected

Subscribers to
pay amount of
Shares when
called for.

connected therewith or hereby authorized, and those who shall accept of any transfer of any share or shares in the Stock of the said Company, and their several heirs, executors, administrators, curators and assigns, or others legally representing them, and having the lawful possession or control of such share or shares, (all of whom shall be deemed proprietors of such share or shares for the purposes of this Section,) shall and they are hereby required to pay the sum or sums of money by them respectively subscribed, or such parts or portions thereof as shall from time to time be called for by the said Company, under and by virtue of the powers and directions of this Act, to such person or persons, and at such times and places as shall be directed by the said Company or the said Directors in manner before mentioned; and in case any person or persons shall neglect or refuse to pay the same at the time and in the manner required for that purpose, it shall be lawful for the said Company to sue for and recover the same with interest and costs in any Court of Law having competent jurisdiction; and in any such action it shall be sufficient to allege that the defendant is the proprietor of a share (or of any number of shares, stating such number) in the stock of the said Company; that certain sums of money were duly called for upon such share or shares by the said Company, under the authority of and in the manner provided by this Act, and were due and payable at a certain time or times, wherefore an action hath accrued to the said Company to recover such sum or sums with interest and costs; and the production of the newspapers containing such calls shall be evidence that the same were made as therein stated; and neither in such action nor in any other action, suit or legal proceeding by the Company, shall the election of the Directors, or the authority of them, or of any Attorney acting in the name of the Company, be called in question, except by the Company, nor shall it in any such case be necessary to name the Directors or any of them.

Company may sue for the amount in case of neglect, &c.

Allegation and evidence.

Certain Officers to give security.

LIII. And be it enacted, That the said Company shall and are hereby required and directed to take sufficient security, by one or more bond or bonds in a sufficient penalty or penalties, from their Treasurer, Receiver and Collectors for the time being of the moneys to be raised by virtue of this Act, for the faithful execution by such Treasurer, Receiver and Collectors of his and their office and offices respectively.

Forfeiture under this Act how to be recovered and applied, when not otherwise provided for.

LIV. And be it enacted, That all fines and forfeitures imposed by this Act, or which shall be lawfully imposed by any By-law to be made in pursuance thereof (of which By-law, when produced, all Justices are hereby required to take notice), the levying and recovering of which fines and forfeitures are not particularly herein directed, shall, upon proof of the offence before any one or more Justice or Justices of the Peace for the District, either by the confession of the party or parties, or by the oath or affirmation of any one credible witness (which oath or affirmation such Justice or Justices of the Peace are hereby empowered and required to administer without fee or reward) be levied by distress and sale of the offender's goods and chattels, by warrant under the hand and seal or hands and seals of such Justice or Justices; and all such fines, forfeitures or penalties by this Act imposed or authorized to be imposed, the application whereof is not hereinbefore particularly directed, shall be paid into the hands of the Treasurer or Receiver of the moneys, to be raised by virtue of this Act, and shall be applied and disposed of for the use of the said Rail-way or undertaking; and the overplus of the money raised by such distress and sale, after deducting the penalty and the expenses of the levying and recovering thereof, shall be returned to the owner of the goods so distrained and sold; and for want of sufficient goods and chattels

How levied.

Imprisonment for want of

whereof

whereof to levy the said penalties and expenses, the offender shall be sent to the Common Gaol for the District of Montreal, there to remain without bail or mainprize for such term not exceeding one month as such Justice or Justices shall think proper, unless such penalty or forfeiture, and all expenses attending the same shall be sooner paid and satisfied.

sufficient
chattels.

LV. And be it enacted, That if any person or persons shall think himself, herself or themselves aggrieved by any thing done by any Justice or Justices of the Peace in pursuance of this Act, every such person or persons may, within four calendar months after the doing thereof, appeal to the Justices of the Peace at the General Quarter or General Sessions to be holden in and for the District.

Appeal given:

LVI. And be it enacted, That if any action or suit shall be brought or commenced against any person or persons for any thing done or to be done in pursuance of this Act, or in the execution of the powers and authorities or of the orders and directions hereinbefore given or granted, every such action or suit shall be brought or commenced within six calendar months next after the fact committed, or in case there shall be a continuation of damage, then within six calendar months next after the doing and committing such damage shall cease, and not afterwards; and the defendant or defendants in such action or suit shall and may plead the general issue, and give this act and the special matter in evidence at any trial to be held thereupon, and that the same was done in pursuance and by the authority of this Act, and if it shall appear to have been so done, or if any action or suit shall be brought after the time so limited for bringing the same, or if the plaintiff or plaintiffs shall be nonsuit, or discontinue his, her or their action or suit after the defendant or defendants shall have appeared, or if judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall have full costs, and shall have such remedy for the same as any defendant or defendants hath or have for costs of suit in other cases by law.

Limitation of
actions for
things done
under this
Act.

General issue.

Costs to De-
fendant if the
Plaintiff fail.

LVII. And be it enacted, That any contravention of this Act by the said Company or by any other party, for which no punishment or penalty is hereby provided, shall be a misdemeanor, and shall be punishable accordingly; but such punishment shall not exempt the said Company (if they be the offending party) from the forfeiture of this Act and the privileges hereby conferred on them, if by the provisions thereof or by law the same shall be forfeited by such contravention.

Contravention
not otherwise
punishable, to
be a misde-
meanor.

LVIII. And be it enacted, That Her Majesty, Her Heirs and Successors, may at any time before or after the said Rail-way is completed, assume the possession and property thereof, and of all the property which the said Company is hereby empowered to hold and shall then have, and of all the rights, privileges and advantages vested by this Act in the said Company (all which shall after such assumption be vested in Her Majesty, Her Heirs and Successors,) on giving to the said Company three months' notice of the intention to assume the same, and on paying to the said Company, within three months after the expiration of such notice, the whole amount of their Capital Stock then paid up and expended, and twenty per centum increase thereon, together with any sums *bonâ fide* furnished or advanced by the Shareholders in the said Company towards the completing and improving the said road and other works connected therewith, with interest on the paid up capital, from the time of the paying up of the same until the time of the opening of the said Rail-way.

Her Majesty
may assume
the road.

Map, &c. to be deposited and the Rail-way to be completed within certain periods.

LIX. And be it enacted, That the said Company, to entitle themselves to the benefits and advantages to them granted by this Act, shall and they are hereby required to make and deposit the map or plan and book of reference mentioned in the fourth section of this Act, within one year after the passing thereof, and to make and complete the said Rail-way from the present terminus in manner aforesaid, within six years from the passing of this Act, and if the said map or plan and book of reference be not so made and deposited within the said space of one year, or if the said Rail-way shall not be so made and completed within the said period so as to be used by the public as aforesaid, then and in either case this Act and every matter and thing therein contained shall cease, and be utterly null and void.

Company annually to submit to the Legislature detailed accounts.

LX. And be it enacted, That the said Company shall annually submit to the three Branches of the Legislature, within the first fifteen days after the opening of each Session of the Provincial Parliament, after the opening of the said Rail-way or any part thereof to the public, a detailed and particular account attested upon oath of the moneys by them received and expended under and by virtue of this Act, with a classified statement of the amount of tonnage and of passengers that have been conveyed along the said Rail-way; and no further provisions which the Legislature may hereafter make with regard to the form or details of such account, or the mode of attesting or rendering the same, shall be deemed an infringement of the privileges hereby granted to the said Company.

Further provision may be made touching such accounts.

Company not exempted from any general Rail-way law.

LXI. And be it enacted, That nothing herein contained shall affect or be construed to affect in any manner or way whatsoever, the rights of Her Majesty, Her Heirs and Successors, or of any person or persons, or of any bodies politic, corporate or collegiate, such only excepted as are herein mentioned.

Saving of Her Majesty's Rights, &c.

LXII. And be it enacted, That nothing herein contained shall be construed to except the Rail-way by this Act authorized to be made, from the provisions of any general Act relating to Rail-ways which may be passed during the present or any future Session of Parliament.

Public Act.

LXIII. And be it enacted, That this Act shall be deemed and taken to be a Public Act, and as such shall be judicially taken notice of by all Judges, Justices of the Peace and others, without being specially pleaded.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CLXXIX.

An Act to amend and extend the Act to incorporate *The Montreal and Province Line Junction Rail-way Company.*

[25th April, 1849.]

WHEREAS by reason of the advanced period of the season at which the Act passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, intituled, *An Act to incorporate the Montreal and Province Line Junction Rail-way Company*, received the sanction of Her Most Gracious Majesty, it was impossible for the said Company to complete and deposit the map or plan, and book of reference of the said intended Rail-way, within the time required in and by the said Act, and it is necessary to extend the same: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the period limited in and by the said Act for the deposit of the said map or plan, and book of reference is hereby extended to the thirty-first day of December, in the year of Our Lord, one thousand eight hundred and fifty.

Preamble.

10 and 11 Vict
c. 12], cited.

Period for de-
positing plan,
&c. of Rail-
way, extended
to 31st Dec.
1850.

II. And whereas the Capital of forty thousand pounds currency, which the said Company were, by the said Act, authorized to raise, has been found insufficient for the purposes of the said Act, and it is expedient to authorize the said Company to increase their said Capital Stock—Be it enacted, That it shall be lawful for the said Company to raise among themselves, or by the admission of new subscribers, or in both these ways, a further sum of thirty-five thousand pounds, currency, for the purposes of the said Act; and every subscriber towards raising such further sum of money, shall be a proprietor in the said undertaking, to an extent proportionate to the sum he shall pay towards the same; and it shall be lawful for the said Company to divide the said further sum of money to be so raised, into such number of shares as the said Company shall think fit, and the said last mentioned shares shall be issued on the same terms and conditions, and subject to the same rules and regulations as are provided in and by the said Act with respect to the Capital Stock authorized to be raised under the said Act.

Capital of the
Company may
be increased to
£75,000.

III. Provided always, and be it enacted, That nothing in this Act contained, shall be construed to affect any right granted to the said Company in and by the said first mentioned

Proviso: Act
not to affect
right of Comy

pany to bor-
row money.

mentioned Act, to raise or borrow any sum or sums of money in the manner, on the conditions, and under the restrictions in the said last mentioned Act provided.

Public Act.

IV. And be it enacted, That this Act shall be a Public Act, and shall be judicially taken notice of as such by all Judges, Justices of the Peace and others, without being specially pleaded.

MONTREAL :—Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CLXXX.

An Act to incorporate a Company for the Construction of a Ship Canal to connect the waters of Lake Champlain and the River Saint Lawrence.

[30th May, 1849.]

WHEREAS the construction of a Ship Canal to connect the River Saint Lawrence with Lake Champlain, leaving the Saint Lawrence at some point between Lake Saint François and the village of Longueuil, and coming out at some point on the River Richelieu or on Lake Champlain, would tend much to advance the general interests of the Province, by greatly increasing the business which would be carried on through the Saint Lawrence Canals, with Boston, New York, and other eastern Cities in the United States, and would greatly contribute to promote the trade, and facilitate the communication between the eastern and western sections of the Province, and particularly the transportation of timber and deals from the Ottawa and Quebec Districts; And whereas the several persons hereinafter named are desirous to make and maintain the said Canal: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That John Young, Harrison Stephens, Benjamin Holmes, Luther H. Holton, Jason C. Pierce, John M. Davidson, William Bristow, William Dow, Robert Jones, Timothy Follett, Charles Seymour, Eli Chittenden, Le Grand Cannon, James Leslie, Alfred H. Pierce, James Rogers, Henry H. Ross, R. W. Sherman, S. S. Keyes, Jacob Cram, H. Hooker, George F. Kinsland, and M. J. Meyers, Esquires, together with such other person or persons as shall, under the provisions of this Act, become subscribers to any proprietors of any share or shares in the Canal hereby authorized to be made, and other works and property hereinafter mentioned, and their several and respective heirs, executors, administrators, curators and assigns, being proprietors, of such share or shares, are and shall be united into a Company for carrying on, making, completing and maintaining the said Canal and other works, according to the rules, orders and directions hereinafter expressed, and shall for that purpose be one body politic and corporate by the name of *The St. Lawrence and Champlain Canal Company*, and by that name shall have perpetual succession, and shall have a Common Seal, and other the usual powers and rights of bodies corporate, not inconsistent with the other provisions of this Act, and by that name shall and may sue and be sued, and may purchase and hold lands (which word throughout this Act shall be understood to include

Preamble.

Certain persons and their successors incorporated for the purpose of making a canal from the St. Lawrence to Lake Champlain.

Corporate name and powers.

include the land and all that is upon or below the surface thereof, and all the real rights and appurtenances thereunto belonging) for them and their successors or assigns, for the use of the said Canal and works, without Her Majesty's *Lettres d'Amortissement*, (saving, nevertheless, to the seignior or seigniors within whose *censive* the lands, tenements and hereditaments so purchased may be situate, his and their several and respective *droits d'indemnité*, and all other seigniorial rights whatever,) and also to alienate and convey any of the said lands purchased for the purposes aforesaid; and any person or persons, bodies politic or corporate, or communities may give, grant, bargain, sell or convey to the said Company any lands for the purposes aforesaid, and the same may re-purchase of the said Company without *Lettres d'Amortissement*; and the said Company shall be and are hereby authorized and empowered from and after the passing of this Act, by themselves, their deputies, agents, officers, workmen and servants, to make and complete a Canal, to be called the *St. Lawrence and Champlain Canal*, from a point on the River St. Lawrence between any part of Lake St. François and the village of Longueuil, and such point on the River Richelieu or on Lake Champlain as may be found most desirable and convenient for the general interests of trade and of the public.

Limits within which the canal shall be made.

Plan of the canal, &c. to be approved by the Governor in Council.

Size of the canal, &c.

Power to the Company to set out and survey lands necessary for their works, &c.

To get and place materials.

To erect building, machinery, &c.

II. Provided always, and be it enacted, That before the said Company, shall break ground or commence the construction of the said Canal, the plan, location, dimensions, and all necessary particulars of the said Canal, and the Locks, Bridges and other works therewith connected, and the points at which it is to leave the River St. Lawrence, and to enter the Richelieu River or Lake Champlain, shall have been submitted to and received the sanction of the Governor in Council; and that the said Canal and the Locks and works thereon shall not be of a less size, depth or capacity than the Beauharnois Canal on the River St. Lawrence.

III. And be it enacted, That for the purposes of this Act, the said Company, their Deputies, Servants, Agents and Workmen, are hereby authorized and empowered to enter into and upon any lands and grounds of the Queen's Most Excellent Majesty, not hereinafter excepted, or of any person or persons, bodies politic or corporate or collegiate, or communities or parties whatsoever, and to survey and take levels of the same, or any part thereof, and to set out and ascertain such parts thereof as they shall think necessary and proper for making the said intended Canal and other works hereby authorized, and all such works, matters and conveniences as they shall think proper and necessary for making, effecting, preserving, improving, completing, maintaining and using the said intended Canal and other works, and to dig, cut, trench, get, remove, take, carry away and lay earth, clay, stone, soil, rubbish, trees, roots of trees, beds of gravel or sand, or any other matters or things which may be dug or got in making the said intended Canal or other works, on or out of the lands or grounds of any person or persons adjoining or lying convenient thereto, and which may be proper, requisite or necessary for making or repairing the said intended Canal or the works incidental or relative thereto, or which may hinder, prevent or obstruct the making, using or completing, extending or maintaining the same, respectively, according to the intent and purpose of this Act; and to make, build, erect and set up, in or upon the said intended Canal or upon their lands adjoining or near the same respectively, such and so many houses, warehouses, toll-houses, watch-houses, telegraphs, or other signals, weighing beams, cranes, steam-engines, or other engines, tow-paths, machines, and other works, as the said Company shall think requisite and convenient for the purposes

purposes of the said Canal; and also from time to time to alter, repair, divert, widen, enlarge and extend the same, and also to make, maintain, repair and alter any bridges, passages over, under or through the said intended Canal, and to construct, erect and keep in repair any bridges, arches and other works upon and across any rivers or brooks for the making, using, maintaining and repairing of the said intended Canal; and to turn any such brook, river or water-course, and to change its course; and the said Company, their Agents or Contractors, shall have the right to enter upon any property or lands adjacent to the said Canal on which there may be found quarries of stone requisite for constructing the Locks or other works of the said Canal, and to quarry and take stone therefrom for the said purposes, compensating the owners as hereinafter provided, and to construct, erect, make and do all other matters and things which they shall think convenient and necessary for the making, effecting, extending, preserving, improving and completing of the said intended Canal and other works, and in pursuance of, and according to the true intent and meaning of this Act, they the said Company doing as little damage as may be in the execution of the several powers to them hereby granted, and making satisfaction in manner hereinafter mentioned to the owners or proprietors of, or the persons interested in the lands, tenements and hereditaments, water, water-courses, brooks or rivers respectively, which shall be taken, used, removed, prejudiced, or of which the course shall be altered, or for all damages to be by them sustained in or by the execution of all or any of the powers given by this Act; and this Act shall be sufficient to indemnify the said Company and their Servants, Agents or Workmen, and all other persons whatsoever for what they or any of them shall do by virtue of the powers hereby granted, subject nevertheless to such provisions and restrictions as are hereinafter mentioned.

Bridges and other works for passing streams, &c.

To open quarries.

Other works necessary for the canal.

As little damage as possible to be done, and compensation to be made.

IV. And be it enacted, That for the purposes of this Act, the said Company shall and may by some sworn Land Surveyor for Lower Canada, and by an engineer or engineers by them to be appointed, cause to be taken and made, surveys and levels of the lands through which the said intended Canal is to be carried, together with a map or plan of such Canal, and of the course and direction thereof, as finally approved by the Governor in Council, and of the said lands through which the same is to pass, and the lands intended to be taken for the several purposes authorized by this Act, so far as then ascertained, and also a book of reference for the said Canal in which shall be set forth a description of the said several lands, and the names of the owners, occupiers and proprietors thereof, so far as they can be ascertained by the said Company, and in which shall be contained every thing necessary for the right understanding of such map or plan; which said map or plan and book of reference shall be examined and certified by the person performing the duties formerly assigned to the Surveyor General or his Deputy, who shall deposit copies thereof in the office of the Prothonotary of the Court of Queen's Bench for the District of Montreal, and also in the office of the Secretary of the Province, and shall also deliver one copy thereof to the said Company, and all persons shall have liberty to resort to such copies so to be deposited as aforesaid, and to make extracts or copies thereof as occasion shall require, paying to the said Secretary of the Province, or to the said Prothonotary, at the rate of six pence current money of this Province for every one hundred words; and the said triplicates of the same plan or map and book of reference so certified, or a true copy thereof, certified by the Secretary of the Province, or by the Prothonotary of the Court of Queen's Bench for the said District, shall severally be and are hereby declared to be good evidence in the Courts of Law and elsewhere in this Province.

Company to take surveys and levels of the lands through which the canal is to be carried, and make a map and book of reference.

The same to be examined and deposited.

Copies may be taken, &c.

Bridges where
the Canal shall
cross High-
ways.

V. Provided always, and be it enacted, That the said Company shall, at each and every place where the said Canal shall cross any highway, erect and keep good and sufficient draw-bridges to the satisfaction of the Governor in Council, and which shall be kept shut except when Vessels are passing, so that the public thoroughfare may be as little impeded as possible; and shall not in making the said Canal cut through or interrupt the passage on any public road until they shall have made a convenient road past their works for the use of the public; and for every day on which they shall neglect to comply with the requirements of this section, the said Company shall incur a penalty of fifty shillings currency.

What quantity
of land may be
taken;

VI. And be it enacted, That the lands or grounds to be taken or used without the consent of the proprietors, for the said Canal, and the ditches, drains and fences to separate the same from the adjoining lands, shall not exceed one hundred and fifty yards in breadth, except in places where basins and other works are required to be cut or made as a necessary part of the Canal, as shewn on the plan approved by the Governor in Council.

Provision for
deviation,
errors in book
of reference,
&c.

VII. And be it enacted, That the said Company may make, carry or place their said intended Canal or works into, and across or upon the lands of any person or party whomsoever in the line shewn on the plan aforesaid, (or within the distance of five hundred yards from such line, except at the points of entering the rivers aforesaid or Lake Champlain or the Chambly Canal, where they shall be confined to the line shewn on the said plan), although the name of such party be not entered in the said book of reference, through error, want of sufficient information, or any other cause, or although some other person or party be erroneously mentioned as the owner of, or party entitled to convey, or interested in such lands.

Company may
use beaches,
&c. doing no
damage to the
navigation.

VIII. And be it enacted, That it shall be lawful for the said Company to take, use, occupy and hold, but not to alienate, so much of the Public Beach or Beach Road, or of the land covered with the waters of the rivers or lake which the said Canal may cross, start from or terminate at, as may be required for the wharves and other works of the said Canal, for making easy entrances thereto and other works which they are hereby authorized to construct, doing no damage to nor causing any obstruction in the navigation of the said rivers or lake, and conforming in all respects to the plan and mode of construction sanctioned as aforesaid by the Governor in Council, except in so far only as he may at any time authorize a deviation from such plan and mode of construction; And provided also, that it shall be lawful for the said Company, with the sanction of the Governor in Council, and upon such terms and conditions as may be agreed upon between the said Company and the Provincial Government, to cause their Canal to enter into the Chambly Canal instead of taking it directly to the River Richelieu or to Lake Champlain, and to widen, deepen, alter and improve so much of the said Chambly Canal as may be necessary in order to make it, from the point where the Canal hereby authorized shall intersect it to the River Richelieu, not less in size, depth and capacity than the Beauharnois Canal aforesaid; Provided always, and be it enacted, That in the event of the said Company so widening, deepening, altering or improving the said Chambly Canal, it shall be incumbent upon them to execute, at their own expense, any works that may be thereby rendered necessary for enlarging or otherwise altering the Draw-Bridge built by the Honorable Robert Jones over the said Chambly Canal at St. John's, and thereafter to work and keep in
repair

Proviso as to
the Chambly
Canal.

Proviso: sav-
ing of the
Rights of the
Hon. R. Jones.

repair the said Draw-Bridge, keeping it shut at all times, except when Vessels are passing, so that the passage thereof may be as little impeded as possible, but they shall not at any time interrupt the passage over the said Draw-Bridge for the purpose of altering, enlarging or repairing the same, until they shall have made or provided a sufficient temporary Bridge over the said Canal, in connection with and continuation of the remainder of the Toll-Bridge of the said Honorable Robert Jones, which temporary Bridge shall be so placed and kept up as to afford, in connection with the said Toll-Bridge, a convenient and safe passage over the River Richelieu and the said Canal, at all times during the continuance of any such works or repairs.

IX. And be it enacted, That the said Company shall have the power to use, sell, lease, rent or otherwise dispose of, for their sole use and benefit, any water brought by the said Canal which may not be required for the purposes thereof, but which may be used or found useful and applicable to drive any machinery in mills, warehouses, manufactories or otherwise, on such terms as they may deem expedient and advisable.

Company may
lease water
power, &c.

X. And be it enacted, That after any lands or grounds shall be set out and ascertained in manner aforesaid, for making and completing the said Canal and other works, and other the purposes and conveniences hereinbefore mentioned, it shall and may be lawful for all bodies politic, corporate or collegiate, corporations aggregate or sole, communities, *grevés de substitution*, guardians, curators, executors, administrators, and all other trustees or persons whatsoever, not only for and on behalf of themselves, their heirs and successors, but also for and on behalf of those whom they represent, whether infants, issue unborn, lunatics, idiots, *femes-covert*, or other persons or parties who are or shall be seized, possessed of or interested in any lands or grounds which shall be so set out and ascertained as aforesaid, or any part thereof, to contract for, sell and convey unto the said Company, all or any part of such lands or grounds which shall under this Act be set out and ascertained as aforesaid; and that all contracts, agreements, sales, conveyances and assurances so to be made, shall be valid and effectual in law to all intents and purposes whatsoever; any law, statute, usage or custom to the contrary thereof in any wise notwithstanding; and that all bodies politic or corporate, or collegiate, or communities, and all persons whatsoever, so conveying as aforesaid, are hereby indemnified for what he, she or they or any of them shall respectively do by virtue of or in pursuance of this Act: Provided always, that before the map or plan and book of reference shall be deposited as aforesaid, and before the lands required for the said Canal and works shall be set out and ascertained, it shall be lawful for any party who might under this Act convey any lands to the said Company, if the same were so then set out and ascertained, to agree with the Company for the price to be paid for such lands if they shall be thereafter so set out and ascertained; and such agreement shall be binding, and the price agreed upon shall be the price to be paid by the Company for the same lands, if they shall be afterwards so set out and ascertained, within one year from the date of such agreement, and although such land may in the meantime have become the property of a third party; and possession of the same may be taken, and the agreement and price may be dealt with, as if such price had been fixed by an award of Arbitrators as hereinafter mentioned.

After any
lands have so
been set out,
all Bodies Cor-
porate, &c.
may sell their
property there-
in to the
Company.

Proviso.
Parties may,
before any
lands are so
set out, agree
with the
Company as
to the price
if they be
afterwards
required.

XI. Provided always, and be it enacted, That any body politic, community, corporation or other like party, who cannot in common course of law sell or alienate any lands

Where no
power is vested
in any party to
or

sell, a fixed annual rent to be established.

Privilege granted for securing such rent or any purchase money not paid.

Agreement with proprietors *par indivis* to a certain extent shall bind the rest.

The Company to apply to the owners touching the compensation to be paid, &c.

Or the mode of establishing such compensation.

How the same shall be settled when the parties cannot agree.

Legal effect of map and book of reference.

Notice to opposite party. Offer.

Name of Arbitrator.

or grounds so set out and ascertained, shall agree upon a fixed annual rent as an equivalent, and not upon a principal sum, to be paid for the lands or grounds so set out and ascertained as necessary for making the said Canal, and other the purposes and conveniences relative thereto and connected therewith; and in case the amount of such rent shall not be fixed by voluntary agreement or compromise, it shall be fixed in the manner hereinafter prescribed; and all proceedings shall in that case be regulated as hereinafter prescribed; and for the payment of the said annual rent, and every other annual rent agreed upon or ascertained, and to be paid by the said Company for the purchase of any lands, or for any part of the purchase money of any lands which the vendor shall agree to leave in the hands of the said Company, the said Canal and works and the tolls to be levied and collected thereon shall be, and are hereby made liable and chargeable, in preference to all other claims or demands thereon whatsoever, the deed creating such charge and liability being duly registered.

XII. Provided always, and be it enacted, That whenever there shall be more than one party proprietor of any land or property *par indivis*, any agreement made in good faith between the said Company and any party or parties proprietor, or being together proprietors of one third or more of such land or property, as to the amount of compensation for the same or any damages thereto, shall be binding as between the remaining proprietor or proprietors *par indivis* and the Company; and the proprietor or proprietors who have so agreed may deliver possession of such land or property to the Company, or empower them to enter upon the same, as the case may be.

XIII. And be it enacted, That so soon as the said map or plan and book of reference shall have been deposited as aforesaid, and notice of its being so deposited shall have been given during at least one calendar month, in the English and French languages, in at least one newspaper published in the City of Montreal, it shall be lawful for the said Company to apply to the several owners of or parties hereby empowered to convey the lands through which such Canal is intended to be carried, or which may suffer damage from the taking of materials, or from the exercise of any of the powers granted to the said Company by this Act, and to agree with such owners or parties respectively, touching the compensation to be paid to them by the said Company for the purchase thereof, and for their respective damages, and to make such agreements and contracts with the said parties touching the said lands, or the compensation to be paid for the same, or for the damages, or as to the mode in which the said compensation shall be ascertained, as to such parties and the said Company shall seem expedient; and in case of disagreement between the said Company and the said owners or parties, or any of them, then all questions which shall arise between them and the said Company shall be settled as follows, that is to say :

The deposit of the map or plan and book of reference, and the notice of such deposit, given as aforesaid, shall be deemed a general notice to all such parties as aforesaid, of the lands which will be required for the said Canal and works ;

The Company shall serve a notice upon the opposite party, containing a description of the lands to be taken, or of the powers intended to be exercised with regard to any lands (describing them,) a declaration that the Company are ready to pay some certain sum (or rent, as the case may be,) as compensation for such lands or for the damages arising from the exercise of such power, and the name of a person whom they appoint as

as their Arbitrator if their offer be not accepted, and such notice shall be accompanied by the certificate of some sworn Surveyor for Lower Canada, disinterested in the matter, and not being the Arbitrator named in the notice, that the land (if the notice relate to the taking of land) is shewn on the map or plan deposited as aforesaid, as being required for the said Canal and works, or as being within the limits of deviation hereby allowed from the line of the said Canal, that he knows such land, or the amount of damages likely to arise from the exercise of such powers, and that the sum so offered is in his opinion a fair compensation for such land and for such damages as aforesaid; and in making the estimate for such compensation, the Surveyor shall, as shall also the Arbitrators hereinafter mentioned, take into consideration and allow for the benefit to accrue from the said Canal to the party to whom compensation is to be made; and in any case where the Company shall have given and served the notice aforesaid, it shall be lawful for them to desist from such notice, and afterwards to give new notice with regard to the same or other lands, to the same or to any other party, but the Company shall in such case be liable to the party first notified for all demands and costs by him incurred in consequence of such first notice and desistment; and no change of ownership after the Company shall have given and served the notice aforesaid, shall affect the proceedings, but the party notified shall be still deemed the owner, except as to the payment of the sum awarded;

Certificate of a Surveyor.

Proviso as to estimate of damages.

If the opposite party be absent from the District in which the land shall be situate, or be unknown to the said Company, then upon application to any Justice of the Court of Queen's Bench or Circuit Judge for the said District, accompanied by such certificate as aforesaid, and by an affidavit of some Officer of the Company, that such opposite party is so absent, or that after diligent inquiry the party on whom the notice ought to be served cannot be ascertained, such Justice or Judge shall order a notice as aforesaid (but without the certificate) to be inserted at least three times during one calendar month in some newspaper published in the City of Montreal, to be named by such Justice or Judge, in the English or French language, or both, in the discretion of such Justice or Judge;

If the party be absent or unknown.

If within ten days after the service of such notice, or within one month after the first publication thereof, as aforesaid, the opposite party shall not notify to the Company that he accepts the sum offered by the said Company, or notify to them the name of a person whom he appoints as Arbitrator, then any such Justice or Judge may, on application of the said Company, appoint some sworn Surveyor for Lower Canada to be sole Arbitrator for determining the compensation to be paid by the Company;

Party not accepting offer, nor appointing an Arbitrator.

If the opposite party shall, within the time aforesaid, notify to the said Company the name of the person such party shall appoint as Arbitrator, then the said two Arbitrators shall jointly appoint a third, or if they cannot agree upon a third, (of which fact the allegation of either of them shall be evidence,) then any such Justice or Judge shall, on the application of the said party or of the Company (previous notice of at least one clear day having been given to the Arbitrator of the other party), appoint a third Arbitrator;

Opposite party appointing an Arbitrator.

Third Arbitrator.

The said Arbitrators or sole Arbitrator, being sworn before a Justice of the Peace faithfully and impartially to perform the duties of their office, shall proceed to ascertain the compensation to be paid by the Company, in such way as they or he or a majority

Duties of Arbitrators.

of

Proviso.
Award not to
be made ex-
cept at proper
meetings or
times.

of them shall deem best, and the award of such Arbitrators or of any two of them, or of the sole Arbitrator, shall be final and conclusive: Provided, that no such award shall be made nor any official act done by such majority, except at a meeting held at a time and place of which the other Arbitrator shall have had at least one clear day's notice, or to which some meeting at which the third Arbitrator was present, or of which he shall have had notice, shall have been adjourned; but no notice to the Company or opposite party shall be necessary, but they shall be held sufficiently notified through the Arbitrator they shall have appointed, or whose appointment they shall have required;

Costs how paid
and taxed.

Provided always, that the award given by any sole Arbitrator shall never be for a less sum than that offered by the Company as aforesaid; and if in any case where three Arbitrators shall have been appointed, the sum awarded be not greater than that offered by the Company, the costs of the arbitration shall be borne by the opposite party, and deducted from the compensation, otherwise they shall be borne by the Company, and in either case they may, if not agreed upon, be taxed by such Justice or Judge as aforesaid;

Arbitrators
may examine
witnesses on
oath.

The Arbitrators or a majority of them, or the sole Arbitrator, may, in their discretion, examine on oath or solemn affirmation, the parties or such witnesses as shall voluntarily appear before him or them, and may administer such oath or affirmation, but this shall not prevent the Arbitrators from acting and deciding upon their personal knowledge of the merits of the case, or from using such knowledge as they shall think just and right: and any wilful false statement made by any witness, under such oath or affirmation, shall be deemed wilful and corrupt perjury, and punishable accordingly;

False state-
ment to be
perjury.

Time within
which award
must be made.

The Justice or Judge by whom any third Arbitrator or sole Arbitrator shall be appointed, shall at the same time fix a day on or before which the award shall be made, and if the same be not made on or before such day, or some other day to which the time for making it shall have been prolonged, either by the consent of the parties or by the order of any such Justice or Judge, (as it may be for reasonable cause shewn, on the application of such sole Arbitrator, or one of the Arbitrators, after one clear day's notice to the others), then the sum offered by the Company as aforesaid shall be the compensation to be paid by them;

Time may be
prolonged in
certain cases.

Arbitrators
dying, &c.

If the party appointed by any Justice or Judge as third Arbitrator or sole Arbitrator shall die before the award be made, or shall refuse to act or fail to act within a reasonable time, then upon the application of either party, any such Justice or Judge being satisfied by affidavit or otherwise of such disqualification, refusal or failure, may, in his discretion, appoint another in his stead; and, if the Arbitrator appointed by the said Company or by the opposite party shall die before the award shall be made, or shall leave the Province, or become unable to act within a reasonable time, (such fact being ascertained to the satisfaction of some Justice or Judge as attested by his Certificate to that effect,) such Justice or Judge may authorize the said Company or the opposite party (as the case may be) to appoint another in his stead, notifying the other Arbitrators of such appointment, but no recommencement or repetition of any prior proceedings, shall be necessary;

It shall be no disqualification to the Surveyor or other person offered or appointed as Valuator or as Arbitrator, that he be employed by the Company or by the opposite party, or that he have previously expressed an opinion as to the amount of compensation, or that he be related or of kin to any Member of the Company, provided he be not himself personally interested in the amount of such compensation; and no cause of disqualification shall be urged against any Arbitrator appointed by a Justice of the Court of Queen's Bench or Circuit Judge after his appointment, but shall be made before the same, and its validity or invalidity summarily determined by such Justice or Judge; and no cause of disqualification shall be urged against any Arbitrator appointed by the Company, or by the opposite party, after the appointment of a third Arbitrator; and the validity or invalidity of any cause of disqualification urged against any such Arbitrator, before the appointment of a third Arbitrator, shall be summarily determined by any such Justice or Judge, on the application of either party, after one clear day's notice to the other, and if such cause be determined to be valid, the appointment shall be null, and the party offering the person so adjudged to be disqualified shall be held to have appointed no Arbitrator;

Arbitrators not disqualified by certain circumstances.

Cause of disqualification, when to be urged.

How tried and determined.

No award made as aforesaid shall be invalidated by any want or form or other technical objection, if the requirements of this Act shall have been substantially complied with, and if the award shall state clearly the sum awarded, and the lands or other property, right or thing for which such sum is to be the compensation; nor shall it be necessary that the party or parties to whom the sum is to be paid be named in the award.

Award not to be avoided by mere want of form, &c.

XIV. And be it enacted, That upon payment or legal tender of the compensation or annual rent so awarded, agreed upon or determined to the party entitled to receive the same, or upon the deposit of the amount of such compensation in the manner hereinafter mentioned, the award or agreement shall vest in the said Company the power forthwith to take possession of the lands, or to exercise the right, or do the thing for which such compensation or annual rent shall have been awarded or agreed upon; and if any resistance or forcible opposition shall be made by any person or party to their so doing, any such Justice or Judge as aforesaid, may, on proof to his satisfaction that the requirements of this Act have been complied with, issue his Warrant to the Sheriff of the District, or to any Bailiff of the Court of Queen's Bench, (as in his discretion may be most suitable,) to put the said Company in possession, and to put down such resistance or opposition, which such Sheriff or Bailiff, taking with him sufficient assistance, shall accordingly do: Provided always, that such Warrant of possession may also be granted by any such Justice or Judge, upon proof by affidavit to his satisfaction, that immediate possession of the land or power to do the thing in question is necessary to the carrying on of the works of the said Company, the adverse party being summoned by one clear day's notice to appear before such Justice or Judge, and the Company giving such security as the said Justice or Judge shall direct, to pay or deposit the sum to be awarded, with interest from the day on which the Warrant shall be granted, and all lawful costs, within thirty days after the award shall be made, such security not being for less than twice the sum offered by the Company in the notice to such adverse party.

Possession may be taken on payment, &c., of the sum awarded.

Warrant of possession in case of resistance.

Proviso: Warrant may be had before award on certain conditions.

XV. And be it enacted, That the compensation awarded as aforesaid, or agreed upon by the said Company, and any party who might under this Act validly convey the

As to claims to or upon lands purchased or taken.

Compensation to stand in the place of the land.

Proviso. Proceedings if the Company have reason to fear incumbrances, or claims by other parties than the vendor.

Costs and interest how paid.

Proviso: if the compensation do not exceed £20.

Proviso as to cases where this Act shall

the lands, or then in lawful possession thereof as proprietor, for any lands which might be lawfully taken under this Act without the consent of the proprietor, shall stand in the stead of such land; and any claim to or hypothec or incumbrance upon the said land, or any portion thereof, shall, as against the said Company, be converted into a claim to the said compensation or to a like proportion thereof, and if the amount of such compensation exceed twenty pounds, they shall be responsible accordingly, whenever they shall have paid such compensation or any part thereof to a party not entitled to receive the same, saving always their recourse against such party: Provided always, that if the said Company shall have reason to fear any such claims, hypothecs, or incumbrances, or if any party to whom the compensation or annual rent, or any part thereof, shall be payable, shall refuse to execute the proper conveyance and guarantee, or if the party entitled to claim the same cannot be found, or be unknown to the company, or if for any other reason the Company shall deem it advisable, it shall be lawful for them to pay such compensation into the hands of the Prothonotary of the Court of Queen's Bench for the District of Montreal, with the interest thereon for six months, and to deliver to the said Prothonotary an authentic copy of the conveyance, or of the award or agreement if there be no conveyance, and such award or agreement shall thereafter be deemed to be the title of the said Company to the land therein mentioned, and proceedings shall thereupon be had for the confirmation of the title of the said Company, in like manner as in other cases of confirmation of title, except that in addition to the usual contents of the notice, the Prothonotary shall state that the title of the Company (that is the conveyance, agreement or award) is under this Act, and shall call upon all persons entitled to, or to any part of the land, or representing or being the husbands of any parties so entitled, to file their oppositions for their claims to the compensation or any part thereof, and all such oppositions shall be received and adjudged upon by the Court, and the judgment of confirmation shall for ever bar all claims to the lands, or any part thereof, (including dower not yet open), as well as all hypothecs or incumbrances upon the same; and the Court shall make such order for the distribution, payment or investment of the compensation, and for the securing of the rights of all parties interested as to right and justice, according to the provisions of this Act and to law shall appertain; and the costs of the said proceedings, or any part thereof, shall be paid by the said Company, or by any other party, as the Court shall deem it equitable to order; and if judgment of confirmation be obtained in less than six months from the payment of the compensation to the Prothonotary, the Court shall direct a proportionate part of the interest to be returned to the Company, and if from any error, fault or neglect of the Company it shall not be obtained until after the six months have expired, the Court shall order the Company to pay to the proper party the interest for such further period as may be right; Provided always, that if the amount of the said compensation do not exceed twenty pounds, the same may be paid by the Company to the party in whose possession as proprietor the land was at the time the Company took possession thereof, or to any person who may lawfully receive money due to such party, and proof of such payment, and the award, conveyance or agreement, shall be a sufficient title to the said Company, and shall for ever discharge them from all claims of any other party to such compensation or any part thereof, saving always the recourse of such other party against the party who shall have receive such compensation.

XVI. Provided always, and be it enacted, That with regard to any lands which could not be taken without the consent of some party entitled under this Act to convey the

the same, or in any case in which the requirements of this Act shall not have been complied with, and in all cases where land shall have been taken, or damage shall have been done by the Company, without previously complying with the requirements of this Act, the rights of the Company and of other parties shall be governed by the ordinary rules of law.

not have been complied with.

XVII. And be it enacted, That if any land belonging to or in the possession of any Tribe or Body of Indians be taken, or any power be exercised with regard to such lands by the said Company, compensation shall be made to them therefor, in the same manner as is provided with respect to other parties; and that whenever it shall be necessary that arbitrators be chosen for settling the amount of such compensation, the Chief Officer of the Indian Department shall name an arbitrator on behalf of the said Indians, and the amount awarded shall be paid to the said Chief Officer for the use of the said Tribe or Body of Indians.

As to lands belonging to Indian Tribes.

XVIII. And be it enacted, That all suits for indemnity for any damage or injury sustained by reason of the powers and authority given by this Act shall be brought within six calendar months next after the time of such supposed damage sustained, or in case there shall be a continuation of damage, then within six calendar months next after the doing or committing such damage shall cease, and not afterwards.

Actions for indemnity limited.

XIX. And be it enacted, That if any person shall by any means or in any manner or way whatsoever, obstruct or interrupt the free use of the said Canal or the works incidental or relative thereto or connected therewith, such person shall for every such offence incur a forfeiture or penalty of not less than one pound five shillings nor exceeding ten pounds currency; one half of which penalty and forfeiture, to be recovered before one or more Justices of the Peace for the District, shall go to the prosecutor or informer, and the other half to Her Majesty, Her Heirs and Successors, and shall be paid into the hands of the Receiver General, and be applied for the public uses of this Province and the support of the Government thereof.

Penalty on persons obstructing the use of the Canal.

How recoverable and applicable.

XX. And be it enacted, That if any person or persons shall wilfully or maliciously, and to the prejudice of the said Canal or other works authorized to be made by this Act, break, damage or destroy the same, or any part thereof, or any of the houses, warehouses, toll-houses, watch-houses, weigh-beams, cranes, vessels, engines, machines or other works or devices, incidental and relative thereto or connected therewith, or do any other wilful hurt or mischief to, or wilfully or maliciously obstruct the free use of the said Canal or works, or shall obstruct, hinder or prevent the carrying on, completing, supporting and maintaining the said intended Canal or works, such person or persons shall be adjudged guilty of felony, and the Court by and before whom such person or persons shall be tried and convicted shall have power and authority to cause such person or persons to be punished in like manner as felons are directed to be punished by the laws in force in this Province, or in mitigation thereof to award such sentence as the law directs in cases of simple larceny, as to such Court shall seem fitting.

Punishment of persons breaking down, or obstructing or damaging the Canal or works.

XXI. And to the end that the said Company may be enabled to carry on so useful an undertaking—Be it enacted, That it shall and may be lawful for the said Company and their successors, to raise and contribute among themselves, in such proportions as to them shall seem meet and convenient, a competent sum of money for the making and

Company to contribute among themselves the necessary sums

for carrying on their undertaking.
 Proviso.
 Books of subscription to be opened.

and completing the said Canal, and all such other works, matters and conveniences as may be found necessary for making, effecting, preserving, improving, completing, maintaining and using the said Canal and other works: Provided always, that the before mentioned John Young, Harrison Stephens, Benjamin Holmès, Luther H. Holton, Jason C. Pierce, John M. Davidson, William Bristow, William Dow, Robert Jones, Timothy Follette, Charles Seymour, Eli Chittenden, Le Grand Cannon, James Leslie, Alfred H. Pierce, James Rogers, Henry H. Ross, R. W. Sherman, S. S. Keyes, Jacob Cram, H. Hooker, George E. Kinsland, and M. J. Meyers, Esquires, or any majority of them, shall cause books of subscription to be opened at such places as they shall appoint, for receiving the signatures of persons willing to become subscribers to the said undertaking, and for this purpose they shall give public notice in some newspapers in the English and French languages, of the time and places at which such books will be opened and ready for receiving signatures as aforesaid, and of the Banks by them authorized to receive such subscriptions; and every person who or whose Attorney shall write her or his signature in such book as a subscriber to the said undertaking, and pay such deposit as may be required by the said persons or the majority of them on the sum subscribed for, shall thereby become a Member of the said Corporation, and shall have the same rights and privileges as such, as are hereby conferred on the several persons who are herein mentioned by name as Members of the said Corporation: Provided always, that the sum so raised shall not exceed the sum of Five hundred thousand pounds of this Province, in the whole, except as hereinafter mentioned, and that the money so raised shall be laid out and applied in the first place for and towards the payment and discharge and satisfaction of all fees and disbursements for obtaining and passing this Act, and for making the surveys, plans and estimates incident thereto, and all other expenses relating thereunto, and all the rest, residue and remainder of such money for and towards making, completing and maintaining the said Canal, and other the purposes of this Act, and to no other use, intent or purpose whatever.

Proviso.
 Capital limited.

Order of charges on the Capital.

Capital to be divided into Shares of £25 each.

To be personal property and transferable.

Rights of Shareholders to profits, &c.

Their liabilities.

XXII. And be it enacted, That the said sum of Five hundred thousand pounds, currency, or such part thereof as shall be raised by the several persons hereinbefore named, and by such other person or persons as shall or may at any time become a subscriber or subscribers to the said Canal, shall be divided into equal parts or shares of Twenty-five pounds, currency, per share; and that the shares be deemed personal estate, and shall be transferable as such; and that the said shares shall be and are hereby vested in the said several subscribers and their several and respective heirs, executors, curators, administrators and assigns, proportionally to the sum they and each of them shall severally subscribe and pay thereunto; and all and every the bodies politic, corporate or collegiate, or communities, and all and every person or persons, their several and respective successors, executors, curators, administrators and assigns, who shall severally subscribe and pay the sum of Twenty-five pounds, or such sums as shall be demanded in lieu thereof, towards carrying on and completing the said Canal, shall be entitled to and receive, after the said Canal shall be completed, the entire and net distribution of the profits and advantages that shall and may arise and accrue by virtue of the money to be raised, recovered or received by the authority of this Act, in proportion to the number of shares so held; and every body politic, corporate or collegiate, or community, person or persons, having such property or shares in the said undertaking, and so in proportion as aforesaid, shall bear and pay an adequate and proportional sum of money towards carrying on the said undertaking, in manner by this Act directed and appointed.

XXIII. And be it enacted, That in case the said sum of Five hundred thousand pounds, currency, hereinbefore authorized to be raised, shall be found insufficient for the purposes of this Act, then and in such case it shall be lawful for the said Company to raise and contribute amongst themselves in manner and form aforesaid, and in such shares and proportions as to them shall seem meet, or by the admission of new subscribers, a further or other sum of money for completing and perfecting the said intended Canal and other works or conveniences incidental or relative thereto, or hereby authorized, not exceeding the sum of Five hundred thousand pounds, currency; and every subscriber towards raising such further or other sum of money, shall be a proprietor in the said undertaking, and have a like right of voting in respect of his, her or their shares in the said additional sum so to be raised, and shall also be liable to such obligations, and stand interested in all the profits and powers of the said undertaking, in proportion to the sum he, she or they shall or may subscribe thereto, as generally and extensively as if such other or further sum had been originally raised as a part of the said first sum of Five hundred thousand pounds, currency; any thing herein contained to the contrary notwithstanding.

If the capital be sufficient the Company may raise a further sum.

XXIV. And be it enacted, That the said Company may from time to time lawfully borrow either in this Province or elsewhere, such sum or sums of money not exceeding at any time one fourth part of the amount paid up, as they may find expedient, and at such rate of interest per annum as they may think proper, any thing in the laws of this Province to the contrary notwithstanding; and may make the bonds, debentures or other securities they shall grant for the sums so borrowed payable either in currency or in sterling, and at such place or places as the Shareholders may deem advisable, and may give security on the tolls, revenues and other property of the said Company for the due payment of the said sums and the interest thereon, but no such debenture if payable to bearer shall be for a less sum than one hundred pounds currency.

Company may borrow a limited sum of money;

And hypothecate their property.

XXV. And be it enacted, That the number of votes to which each proprietor of shares in the said undertaking shall be entitled on every occasion when in conformity to the provisions of this Act the votes of the Members of the said Company are to be given, shall be in the proportion to the number of shares held by him, that is to say: one vote for any less number than five shares, and each holder or proprietor of every five shares and upwards, shall have two votes for every five shares; and all Proprietors of shares may vote by proxy, if they shall see fit, provided that such proxy do produce from his constituent or constituents, an appointment in writing, in the words or to the following effect, that is to say:

Votes of Proprietors according to the number of their Shares.

Proprietors may vote by proxy.

“ I, _____ of _____ one of the Members of
 “ the *Saint Lawrence and Champlain Canal Company*, do hereby nominate, constitute
 “ and appoint _____ of _____ to be my proxy,
 “ in my name, and in my absence to vote or give my assent or dissent to any business,
 “ matter or thing relating to the said undertaking that shall be mentioned or proposed
 “ at any meeting of the Members of the said Company, or any of them, in such manner
 “ as he the said _____ shall think proper, according to his
 “ opinion and judgment, for the benefit of the said undertaking, or any thing appertain-
 “ ing thereto. In witness whereof, I have hereunto set my hand and seal, the
 “ _____ day of _____ in the year _____ ”

Form of appointment of proxy.

And

Questions to be decided by majority of votes.

And such vote or votes by proxy shall be as valid as if the principal or principals had voted in person; and whatever question, election of proper Officers, or matters or things shall be proposed, discussed or considered in any public meeting of the Proprietors to be held by virtue of this Act, shall be determined by the majority of votes and proxies then present and so given as aforesaid, and all decisions and acts of any such majority shall bind the said Company, and be deemed the decisions and acts of the said Company.

Liabilities of Shareholders limited.

XXVI. And be it enacted, That no Member of the said Company shall be in any manner whatsoever liable for or charged with the payment of any debt or demand due by the said Company beyond the extent of his, her or their share in the Capital of the said Company not paid up.

The first General Meeting of the proprietors to be held at Montreal.

XXVII. And be it enacted, That the First General Meeting of the Members of the Company for putting this Act into execution, may be held at Montreal whenever sufficient shares have been subscribed for, provided that public notice thereof be given during one week in at least one newspaper published in the English and at least one published in the French language, and signed by at least three of the subscribers to the said undertaking holding among them at least one hundred shares; and at such said General Meeting, the Members assembled, with such proxies as shall be present, shall choose nine Directors, being each a Proprietor of not less than five shares in the said undertaking, in such manner as is hereinafter directed, and may also proceed to pass such Rules and Regulations and By-laws as shall seem to them fit, provided they be not inconsistent with this Act, or with the Laws of Lower Canada.

To elect a Board of nine Directors.

Qualification.

Annual election of Directors.

XXVIII. And be it enacted, That the Directors first appointed (or those appointed in their stead in case of vacancy) shall remain in office until the election of Directors in the month of January of the then next year, and that in the month of January in the said year and each year thereafter, and on such day of the month as shall be appointed by any By-law, an Annual General meeting of the Members of the Company shall be held to choose Directors in the room of those whose office may at that time become vacant, and generally to transact the business of the Company; but if at any time it shall appear to any five or more of such Members holding together one hundred shares at least, that for more effectually putting this Act in execution, a Special General Meeting of the Members is necessary to be held, it shall be lawful for such five or more of them to cause fifteen days' notice at least to be given thereof in two public newspapers as aforesaid, or in such manner as the Company shall by any By-law direct or appoint, specifying in such notice the time and place, and the reason and intention of such Special Meetings, respectively; and the Members are hereby authorized to meet pursuant to such notices, and proceed to the execution of the powers by this Act given them, with respect to the matter so specified only; and all such Acts of the Members or the majority of them, at such Special Meetings assembled, such majority not having either as principals or proxies less than one hundred shares, shall be as valid to all intents and purposes as if the same were done at Annual Meetings: Provided always, that it shall and may be lawful for the said Members at such Special Meetings, (in like manner as at Annual Meetings,) in case of the death, absence, resignation or removal of any person elected a Director to manage the affairs of the said Company in manner aforesaid, to appoint another or others in the room or stead of those of the Directors who may die, resign, or be removed as aforesaid, any thing in this Act to the contrary notwithstanding;

Special Meetings of Proprietors may be called.

Quorum at special Meetings.

Proviso: Vacancies among the Directors how filled.

notwithstanding ; but if such appointment be not made, such death, absence or resignation shall not invalidate the acts of the remaining Directors.

XXIX. And be it enacted, That at each of the said Annual Meetings of the Members of the said Company, five of the said Directors shall retire, the order of retirement of the said first elected Directors being decided by ballot, but the Directors then or at any subsequent time retiring, shall be eligible for re-election : Provided always, that no such retirement shall have effect, unless the Members shall at any such Annual Meeting proceed to fill up the vacancies thus occurring in the Direction.

Two Directors to retire annually.

Proviso.

XXX. And be it enacted, That the Directors shall, at their first, or at some other, Meeting after the day appointed for the Annual General Meeting in each year, elect one of their members to be the President of the said Company, who shall always (when present) be the Chairman of, and preside at all meetings of the Directors, and shall hold his office until he shall cease to be a Director, or until another President shall be elected in his stead ; and the said Directors may in like manner elect a Vice-President who shall act as Chairman in the absence of the President.

Directors to elect a President ;

And Vice-President.

XXXI. And be it enacted, That any meeting of the said Directors, at which not less than five Directors shall be present, shall be competent to use and exercise all and any of the powers hereby vested in the Directors of the said Company : Provided always, that no one Director, though he may be a Proprietor of many shares, shall have more than one vote at any Meeting of the Directors, and the President or the Vice-President when acting as Chairman, or any temporary Chairman, who in case of the absence of the President and Vice-President, may be chosen by the Directors present, shall, when presiding at a meeting of the Directors in case of a division of equal numbers, have the casting vote, and no other ; And provided also, that the Directors shall from time to time be subject to the examination and control of the said Annual and Special Meetings of the said Members as aforesaid, and shall pay due obedience to all By-laws of the Company, and to such orders and directions, in and about the premises, as they shall from time to time receive from the said Members at such Annual or Special Meetings ; such orders and directions not being contrary to any express directions or provisions in this Act contained : And provided also, that the Act of any majority of a *quorum* of the Directors present at any meeting regularly held shall be deemed the act of the Directors.

Five Directors to be a *Quorum*.
Proviso.

Casting vote of Chairman.

Proviso : Directors subject to the control of Meetings.

Proviso : Acts of a majority to be valid.

XXXII. Provided always, and be it enacted, That no person concerned or interested in any contract or contracts, under the said Company, shall be capable of being chosen a Director, or of holding the office of Director.

No contractor, &c. to be a Director.

XXXIII. And be it enacted, That every such Annual Meeting shall have power to appoint not exceeding three Auditors to audit all accounts of money laid out and disbursed on account of the said undertaking, by the Directors and Managers and other officer and officers to be by the said Directors appointed, or by any other person or persons whatsoever, employed by or concerned for or under them, in and about the said undertaking ; and to that end the said Auditors shall have power to adjourn themselves over from time to time and from place to place as shall be thought convenient by them : and the said Directors chosen under the authority of this Act shall have power from time to time to make such call or calls of money from the

Three Auditors to be appointed yearly—

To audit all accounts.

Power of the Directors to make calls.

Proprietors

Proprietors of the said Canal and other works to defray the expense of, or to carry on the same, as they from time to time shall find wanting and necessary for those purposes: Provided however, that no call do exceed the sum of five pounds current money of this Province, for every share of twenty-five pounds currency; and provided also, that no calls be made but at the distance of at least three calendar months from each other: And the said Directors shall have full power and authority to direct and manage all and every the affairs of the said Company, as well in contracting for and purchasing lands, rights and materials for the use of the said Company, as in employing, ordering and directing the work and workmen, and in placing and removing managers, officers, clerks, servants and agents, and in making all contracts and bargains touching the said undertaking; and to affix or authorize the Secretary or his Deputy to affix the Common Seal of the Company to any act, deed, by-laws, notice or other document whatsoever; and any such act, deed, by-law, notice or other document bearing the Common Seal of the Company, and signed by the President, Vice-President, or any Director, or by any Officer by order of the Directors, shall be deemed the Act of the Directors and of the Company, nor shall the authority of the signer of any document purporting to be so signed and sealed, to sign the name and affix the said Seal thereto, be liable to be called in question by any party except the Company; and the Directors shall have such other and further powers as being vested in the Company by this Act, shall be conferred upon the said Directors by the By-laws of the Company, except such as are hereby expressly directed to be exercised by the Members at Annual or Special Meetings.

Proviso: calls how to be made.

Other powers of the Directors.

Further powers may be conferred by By-law.

Shareholders bound to pay calls.

Penalty for neglect.

Forfeiture for not paying calls.

Proviso: Amount of calls may be sued for.

What shall be alledged and proved in such suit.

XXXIV. And be it enacted, That each owner or owners of one or more shares in the said undertaking, shall pay his, her or their shares and proportion of the money to be called for as aforesaid, to such Bankers and at such time and place as the said Directors shall appoint and direct, of which notice shall be given by at least four insertions thereof in the course of three months, in two newspapers as aforesaid, or in such other manner as the members of the said Company shall by any By-law direct or appoint; and if any person or persons shall neglect or refuse to pay his, her or their rateable or proportional part or share of the said money, to be called for as aforesaid, at the time and place so appointed, he, she or they neglecting or refusing shall forfeit a sum not exceeding the rate of five pounds for every one hundred pounds of his, her or their respective share or shares in the said undertaking: and in case such person or persons shall neglect to pay his, her or their rateable calls as aforesaid, for the space of six calendar months after the time appointed for the payment thereof as aforesaid, then he, she or they shall forfeit his, her and their respective share and shares in the said undertaking, and all the profit and benefit thereof and all money paid therein; all which forfeitures shall go to the rest of the Proprietors of the said undertaking, their successors and assigns, for the benefit of the said Proprietors in proportion to their respective interests; and in every case such calls shall be payable with interest from the time the same shall be so appointed to be paid until the payment thereof; Provided always, that in case any person or persons shall neglect or refuse to pay any such call or calls at the time and in the manner required for that purpose, it shall be lawful for the said Company to sue for and recover the same with interest and costs in any Court of Law having competent jurisdiction; and in any such action it shall be sufficient to alledge and to prove by any one witness whether in the employ of the Company or not, that the defendant is the proprietor of a share (or of any number of shares, stating such number) in the stock of the said Company; that certain sums of money

money were duly called for upon such share or shares by the said Company, under the authority of and in the manner provided by this Act, and were due and payable at a certain time or times, whereby an action hath accrued to the said Company, to recover such sum or sums with interest and costs; and the production of the newspapers containing such calls shall be evidence that the same were made as therein stated; and neither in such action, nor in any other action, suit or legal proceeding by the Company, shall the election of the Directors, or the authority of them, or of the Attorney or Solicitor acting in the name of the Company, be called in question except by the Company, nor shall it in any such case be necessary to name the Directors or any of them, or to mention any other special matter whatever, and the defendant shall not plead the general issue, but may by a plea in denial traverse any particular matters of fact alledged in the declaration, or specially plead some particular matters of fact in confession and avoidance.

XXXV. Provided always, and be it enacted, That no advantage shall be taken of the forfeiture of any share or shares of the said undertaking, unless the same shall be declared to be forfeited at some Annual or Special Meeting of the said Company assembled after such forfeiture shall be incurred; and every such forfeiture shall be an indemnification to and for every proprietor so forfeiting against all action and actions, suits or prosecutions whatever, to be commenced or prosecuted for any breach of contract or other agreement between such proprietor and the other proprietors with regard to carrying on the said Canal or undertaking.

Forfeitures to be declared at some General Meeting.

XXXVI. And be it enacted, That the said Company shall always have power and authority at any General Meeting assembled as aforesaid, to remove any person or persons chosen upon such Board of Directors as aforesaid, and to elect others to be Directors in the room of those who shall die, resign or be removed, and to revoke, alter, amend or change any of the By-laws or Orders prescribed with regard to their proceedings amongst themselves (the method of calling General Meetings, and the time and place of assembling, and manner of voting and of appointing Directors, only excepted,) and shall have power to make such new Rules, By-laws and Orders, for the good government of the said Company and their servants, agents and workmen, for the good and orderly making, maintaining and using the said Canal and all other works connected therewith, or belonging thereto, or hereby authorized, and for the well governing of all persons and vessels whatsoever travelling upon or using the said Canal and other works, or transporting any goods, wares, merchandize or other commodities thereon; and by such By-laws to impose and inflict such fines or forfeitures upon the persons guilty of a breach of such By-laws, or Orders, as to such General Meeting shall seem meet, not exceeding the sum of ten pounds, current money of this Province, for every offence; such fines or forfeitures to be levied and recovered by such ways and means as are hereinafter mentioned; which said By-laws and Orders being put into writing under the Common Seal of the said Company, shall be kept in the Office of the Company, and a printed or written copy of so much of them as may relate to or affect any party other than members or servants of the Company, shall be affixed openly in the Office of the said Company in all and every of the places where Tolls are to be gathered, and in like manner as often as any change or alteration shall be made to the same; and the said By-laws and Orders so made and published as aforesaid, shall be binding upon and observed by all parties, and shall be sufficient in any Court of Law or Equity to justify all persons who shall act under the same, and any copy of the said

Company may remove any Director, &c.

And so of Officers.

May make By-laws, &c.

Penalties under By-laws limited.

By-laws to be in writing, and published.

By-laws

Certified copies to be evidence.

Proviso: Certain By-laws to be subject to approval of the Governor in Council.

Proprietors of the said Canal may dispose of their Shares, and how.

Transfer to be notified to the Company.

Form of the transfer of Shares.

The form.

Proviso.

Directors may appoint a Treasurer and Clerks, &c.

Duty of the Clerk.

By-laws or any of them purporting to be certified as correct by the President or some person authorized by the Directors to give such certificate, and to bear the Common Seal of the Company, shall be deemed authentic, and shall be received as evidence of such By-laws in any Court without further proof; Provided always, that no By-law of the said Company, fixing or altering the rate of Tolls on the said Canal, or affecting others than the members or officers of the said Company, shall have force or effect until it shall have been confirmed by the Governor in Council.

XXXVII. And be it enacted, That it shall and may be lawful to and for the several proprietors of the said Canal or undertaking to sell or dispose of his, her or their share or shares therein, subject to the rules and conditions herein mentioned; and every purchaser shall have a duplicate of the deed of bargain and sale and conveyance made unto him or her, and one part of such deed, duly executed by seller and purchaser, shall be delivered to the said Directors or their Secretary for the time being, to be filed and kept for the use of the said Company, and an entry thereof shall be made in a book or books to be kept by the said Secretary for that purpose, for which no more than one shilling and three pence shall be paid, and the said Secretary is hereby required to make such entry accordingly; and until such duplicate of such deed shall be so delivered to the said Directors or their Secretary, and filed and entered as above directed, such purchaser or purchasers shall have no part or share of the profits of the said undertaking, nor any interest for the said share or shares, paid unto him, her or them, nor any vote as a proprietor or proprietors.

XXXVIII. And be it enacted, That the sale of the said shares shall be in the form following, varying the names and descriptions of the contracting parties as the case may require:

“ I, A. B., in consideration of the sum of _____ paid to me by
 “ C. D., of _____ do hereby bargain, sell and transfer to the said
 “ C. D., _____ share (or shares) of the stock of the *Saint*
 “ *Lawrence and Champlain Canal Company*, to hold to him, the said C. D., his heirs,
 “ executors, curators, administrators and assigns, subject to the same rules and orders,
 “ and on the same conditions that I held the same immediately before the execution
 “ hereof. And I, the said C. D., do hereby agree to accept of the said
 “ share (or shares) subject to the same rules, orders and conditions. Witness our
 “ hands and seals, this _____ day of _____, in the year _____.”

Provided always, that no such transfer of any share shall be valid until enregistered in a transfer book to be kept for that purpose, nor until all calls or instalments then due thereon shall have been paid up.

XXXIX. And be it enacted, That it shall and may be lawful to and for the said Directors, and they are hereby authorized to nominate and appoint the Bankers, Secretary, Treasurer, Solicitor and Servants of the said Company, taking such security for the due execution of their respective offices as the said Directors shall think proper; and in proper books shall be kept a true and perfect account of the names and places of abode of the several members of the said Company, and of the several persons who shall from time to time become owners and proprietors of, or entitled to any share or shares therein, and of all the acts, proceedings and transactions of the said Company and of the Directors for the time being, by virtue of and under the authority of this Act.

XL. And be it enacted, That it shall and may be lawful to and for the said Company from time to time, and all times hereafter, to ask, demand, take and recover, to and for their own proper use and behoof, for all passengers, goods, wares, merchandize and commodities, of whatever description, transported upon the said Canal, or vessels using the same, such Tolls as they may deem expedient; which said Tolls shall be from time to time fixed and regulated by By-laws of the Company, or by the Directors if thereunto authorized by the said By-laws, and shall be paid to such person or persons, and at such place or places near to the said Canal, in such manner and under such regulations as the said Company or the said Directors shall direct and appoint; and in case of denial or neglect of payment of any such rates or dues, or any part thereof on demand, to the person or persons appointed to receive the same as aforesaid, the said Company may sue for and recover the same in any Court having competent jurisdiction, or the person or persons to whom the said rates or dues ought to be paid, may and he is, and they are hereby empowered to seize and detain such vessels, goods, wares, merchandize or other commodities, for or in respect whereof such rates or dues ought to be paid, and detain the same until payment thereof: and in the meantime the said vessels, goods, wares, merchandize, or other commodities, shall be at the risk of the owner or owners thereof; and the said Company or the said Directors shall have full power, from time to time, at any General Meeting, to lower or reduce all or any of the said Tolls, and again to raise the same as often as it shall be deemed necessary for the interests of the said undertaking; Provided always, that the same Tolls shall be payable at the same time and under the same circumstances upon all vessels, and goods, and upon all persons, so that no undue advantage, privilege or monopoly may be afforded to any person or class of persons by any By-law relating to the said Tolls.

Company may establish Tolls on the Canal.

How recovered if not duly paid.

Seizure of goods, &c.

Tolls may be lowered and again raised.

Proviso against monopoly.

XLI. And in order to ascertain the amount of the clear profits of the said undertaking—Be it enacted, That the said Company, or the Directors for managing the affairs of the said Company, shall and they are hereby required to cause a true, exact and particular account to be kept and semi-annually made up and balanced to the first day of January and the first day of July in each year, of the money collected and received by the said Company, or by the Directors or Managers and Servants of the said Company, or otherwise for the use of said Company, by virtue of this Act, and of the charges and expenses attending the erecting, making, supporting, maintaining and carrying on their works, and all other receipts and expenditure of the said Company or the said Directors; and at the General Meetings of the Members of the said Company, to be from time to time holden as aforesaid, a dividend shall be made out of the clear profits of the said undertaking, unless such meetings shall declare otherwise; and such dividend shall be at and after the rate of so much per share upon the several shares held by the Members of the said Company, as such meeting or meetings shall think fit to appoint or determine; Provided always, that no dividend shall be made whereby the capital of the said Company shall be in any degree reduced or impaired, nor shall any dividend be paid in respect of any share, after a day appointed for payment of any call for money in respect thereof, until such call shall have been paid.

Account of profits to be annually made up at certain periods.

Dividends to be made from time to time.

Proviso. Capital not to be impaired.

XLII. Provided always, and be it enacted, That in all cases where there shall be a fraction of a mile in the distance which vessels goods, wares, merchandize, or other commodities or passengers shall be conveyed or transported on the said Canal, such fraction shall in ascertaining the said rates be deemed and considered as a whole mile, and that in all cases where there shall be the fraction of a ton in the weight of any such

Fractions in distance or weight how calculated.

such goods, wares, merchandize, or other commodities, a proportion of the said rates shall be demanded and taken by the said Company, to the number of quarters of a ton contained therein; and in all cases where there shall be a fraction of a quarter of a ton, such fraction shall be deemed and considered as a whole quarter of a ton.

Tables of Tolls to be publicly affixed.

XLIII. Provided always, and be it enacted, That the said Company shall from time to time print and stick up, or cause to be printed and stuck up in their office, and in all and every of the places where the Tolls are to be collected, in some conspicuous place there, a printed Board or paper ascertaining all the Tolls payable under this Act.

Proviso as to services to the Government.

XLIV. Provided always, and be it enacted, That any enactments which the Legislature of this Province may hereafter deem it expedient to make, with regard to the exclusive use of the Canal by the Government at any time, or the carriage of Her Majesty's Mail or Her Majesty's Forces and other persons and articles, or the rates to be paid for carrying the same, or in any way respecting the use of any Electric Telegraph, or other service to be rendered by the Company to the Government, shall not be deemed an infringement of the privileges intended to be conferred by this Act.

Company to make fences, &c. if required.

XLV. And be it enacted, That the said Company shall within six calendar months after any lands shall be taken for the use of the said Canal or undertaking, and if thereunto required by the proprietors of the adjoining lands respectively, but not otherwise, divide and separate, and keep constantly divided and separated, the lands so taken from the lands or grounds adjoining thereto, with a sufficient post and rail, hedge, ditch, bank or other fence sufficient to keep off hogs, sheep and cattle, to be set and made on the lands or grounds which shall be purchased by, conveyed to, or vested in the said Company as aforesaid, and shall at their own costs and charges, from time to time, maintain, support and keep in sufficient repair the said posts, rails, hedges, ditches, trenches, banks and other fences so set up and made as aforesaid.

Canal to be measured and miles marked.

XLVI. And be it enacted, That so soon as conveniently may be after the said Canal shall be completed, the said Company shall cause the same to be measured, and stones or posts, with proper inscriptions on the sides thereof denoting the distance, to be erected and maintained at the distance of every mile from each other.

Treasurer, Receiver and Collector to give security.

XLVII. And be it enacted, That the said Company shall and are hereby required and directed to take sufficient security, by one or more bond or bonds, in a sufficient penalty or penalties, from their Managers and Collectors for the time being of the money to be raised by virtue of this Act, for the faithful execution by such Managers and Collectors of his and their office and offices respectively.

Forfeitures under this Act, how recovered and applied, when not otherwise provided for.

XLVIII. And be it enacted, That all fines and forfeitures imposed by this Act, or which shall be lawfully imposed by any By-laws to be made in pursuance thereof, (of which By-laws, when produced, all Justices are hereby required to take notice,) the levying and recovering of which fines and forfeitures are not particularly herein directed, shall, upon proof of the offence before any one or more Justice or Justices of the Peace for the District, either by the confession of the party or parties, or by the oath or affirmation of any one credible witness (which oath or affirmation such Justice or Justices are hereby empowered and required to administer without fee or reward,) be levied with costs by distress and sale of the offender's goods and chattels, by Warrant under

under the hand and seal or hands and seals of such Justice or Justices ; and all such fines, forfeitures or penalties by this Act imposed or authorized to be imposed, the application whereof is not hereinbefore particularly directed, shall be paid into the hands of the Company, and shall be applied and disposed of for the use of the said Canal or undertaking, and the overplus of the money raised by such distress and sale, after deducting the penalty and the expenses of the levying and recovering thereof, shall be rendered to the owner of the goods so distrained and sold ; and for want of sufficient goods and chattels whereof to levy the said penalty and expenses, the offender shall be sent to the Common Gaol for the District wherein he is convicted there to remain without bail or mainprize for such term not exceeding one month as such Justice or Justices shall think proper, unless such penalty and forfeiture, and all expenses attending the same, shall be sooner paid and satisfied.

Levy by distress and sale of goods and chattels.

Imprisonment for want of sufficient chattels.

XLIX. And be it enacted, That if any person or persons shall think himself, herself or themselves aggrieved by any thing done by any Justice or Justices of the Peace in pursuance of this Act, every such person or persons may within four calendar months after the doing thereof, appeal to the Justices of the Peace at the General Quarter or General Sessions to be holden in and for the District.

Appeal to the General Sessions.

L. And be it enacted, That if any action or suit shall be brought or commenced against any person or persons for any thing done or to be done in pursuance of this Act, or in the execution of the powers and authorities or of the orders and directions hereinbefore given or granted, every such action or suit shall be brought or commenced within six calendar months next after the fact committed, or in case there shall be a continuation of damage, then within six calendar months next after the doing or committing such damage shall cease, and not afterwards.

Limitation of actions for things done under this Act.

LI. And be it enacted, That any contravention of this Act by the said Company or by any other party, for which no punishment or penalty is herein provided, shall be a misdemeanor, and shall be punishable accordingly ; but such punishment shall not exempt the said Company (if they be the offending party) from the forfeiture of this Act and the privileges hereby conferred on them, if by the provisions thereof, or by law, the same be forfeited by such contravention.

As to contravention of this Act not otherwise punishable.

LII. And be it enacted, That Her Majesty, Her Heirs and Successors may at any time after fifteen years from the complete construction of the said Canal assume the possession and property thereof, and of all the property which the said Company is hereby empowered to hold and shall then have, and of all the rights, privileges and advantages vested by this Act in the said Company, (all which shall after such assumption be vested in Her Majesty, Her Heirs and Successors,) on giving to the said Company two years' notice of the intention to assume the same, and on paying to the said Company, within three months of the expiration of such notice the whole current amount of their Capital Stock according to its value at that time, and fifteen per cent. additional thereon.

Her Majesty may assume the Canal on certain conditions.

LIII. And be it enacted, That the said Company, to entitle themselves to the benefits and advantages to them granted by this Act, shall and they are hereby required to make and deposit the map or plan and book of reference mentioned in this Act within eighteen months after the passing thereof, and to make and complete the said Canal

Map and book of reference to be deposited, and the Gaol completed within certain

periods, or this Act to be void.

Canal from the River St. Lawrence to Lake Champlain or the River Richelieu in manner aforesaid, as soon as possible from the passing of this Act; and if the said map or plan and book of reference be not so made and deposited within the said eighteen months, or if the whole of the Stock of the said Company be not subscribed and at least ten per centum thereon paid up and either expended for the purposes of this Act, or deposited in some chartered Bank or Banks in this Province within three years from the passing of this Act, or if the said Canal shall not be so made and completed within the period of five years, so as to be used by the public as aforesaid, then and in either case this act and every matter and thing therein contained shall cease and be utterly null and void.

Company annually to submit detailed accounts to the Legislature.

LIV. And be it enacted, That the said Company shall annually submit to the three Branches of the Legislature, within the first fifteen days after the opening of each Session of the Provincial Parliament, after the opening of the said Canal or any part thereof to the public, a detailed and particular account, attested upon oath, of the moneys by them received and expended under and by virtue of this Act, with a classified statement of the amount of tonnage and of the vessels, passengers and freight that have been conveyed along the said Canal; and no further provisions which the Legislature may hereafter make with regard to the form or details of such account, or the mode of attesting or rendering the same, shall be deemed an infringement of the privileges hereby granted to the Company.

Further provision may be made.

Saving of Her Majesty's Rights, &c.

LV. And be it enacted, That nothing herein contained shall affect or be construed to affect, in any manner or way whatsoever, the rights of Her Majesty, Her Heirs and Successors, or of any person or persons, or of any bodies politic, corporate or collegiate, such only excepted as are herein mentioned.

What must be done before commencing operations.

LVI. And be it enacted, That the said Company shall not proceed to break ground or commence the construction of the said Canal until shares to the amount of two hundred thousand pounds shall have been taken in the Capital Stock of the said Company, and ten per cent. thereon shall have been paid into the hands of the Treasurer or Banker of the said Company, nor until the said election of Directors hereinbefore in that behalf provided shall have been held.

Company not exempted from any general Canal law.

LVII. And be it enacted, That nothing herein contained shall be construed to except the Canal by this Act authorized to be made, from the provisions of any general Act, which may be passed during the present or any future Session of Parliament, and no further provision which the Legislature of the Province may make for enforcing any of the provisions of this Act, or for protecting the public or the rights of private parties shall be deemed an infringement of the rights of the said Company.

Public Act.

LVIII. And be it enacted, That this Act shall be deemed and taken to be a Public Act, and as such shall be judicially taken notice of by all Judges, Justices of the Peace and others, without being specially pleaded.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CLXXXI.

An Act to incorporate *The Montreal and Troy Telegraph Company.*

[30th May, 1849.]

WHEREAS Hannibal H. Whitney, William Workman, Charles Lindsay, Hector Russell and Edwin Atwater, and other inhabitants of this Province, having associated themselves together, have constructed an Electro-Magnetic Telegraph, extending from the City of Montreal to the Province Line, passing along the Lower Lachine Road to or near the Lachine Rapids, across to an Island in the River St. Lawrence, known as Allsop's Island, thence to a small Island, known as Isle à Bocquet, near the South Shore, thence to the main land, through Laprairie, St. John's, St. Athanase, Pike River and Phillipsburgh, connecting near the latter place, in the County of Missisquoi, with the Troy and Canada Junction Telegraph Company, and have petitioned to be incorporated for the purposes of this Act, and it is expedient to grant the prayer of their Petition: Be it therefore enacted by the Queen's Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the said Hannibal H. Whitney, William Workman, Charles Lindsay, Hector Russell and Edwin Atwater, together with all such persons as shall become Stockholders of the Company hereinafter mentioned, shall be, and are hereby constituted a body corporate and politic, by the name of *The Montreal and Troy Telegraph Company*, and by that name they and their successors shall and may have continued succession, and may contract and be contracted with, sue and be sued, plead and be impleaded, answer and be answered unto, in all Courts and places whatsoever, in all manner of actions, suits, complaints, matters and causes whatsoever, and that they and their successors may and shall have a Common Seal, and may change and alter the same at their will and pleasure, and also, that they and their successors shall be in law, capable of purchasing, having, and holding to them and their successors, any estate real, or personal or mixed, to and for the use of the said Company, and of letting, conveying, or otherwise departing therewith, for the benefit and on account of the said Company, from time to time, as they shall deem necessary or expedient: Provided always, that the real estate to be held by the said Company shall be only such as may be necessary for the purpose of building, using and preserving the said Electro-Magnetic Telegraph, and for objects immediately connected therewith.

Preamble.

Certain persons and their successors incorporated.

Corporate name and powers.

Proviso.

Corporation substituted for Association.

II. And be it enacted, That the stock property, rights and claims of the said Association, shall from and after the passing of this Act, be vested in the said Corporation, and the liabilities of the said Association shall be the liabilities of the said Corporation.

Company empowered to do certain acts and things necessary to the maintenance of their Telegraph.

III. And be it enacted, That the said Company shall have full power and authority to maintain and keep up that part of the said Electro-Magnetic Telegraph already erected and built by them, in such manner and in such places as the same has been and now is constructed, and to complete the same from the said City of Montreal to the said Province Line, and in making or maintaining and repairing the same, or removing the crossing over the River St. Lawrence if found necessary, to take down or remove, replace, renew and re-erect the same in any other part of the public roads and highways of the District, Towns and Villages between the said City of Montreal and the said Province Line, through which the same is carried, to cut down and remove all trees which may obstruct or interfere with the erection or efficient working of the same, having first paid the value thereof to the owner or owners when demanded, also to cross the line on all bridges and over all rivers: Provided always, that the full and perfect use and enjoyment by the public, of the roads and highways over which the same may pass, be in no ways infringed or impeded by the works of the said Company, and that the navigation be not hindered, and that no further or other posts or erections shall be put or placed in and upon such roads or highways, except under the direction of the Commissioners of Public Works or their officers; and provided also, that nothing herein contained shall authorize, or be construed so as to authorize, the said Company to cross or continue the said Line on the bridge built by the Honorable Robert Jones over the River Richelieu, in the Parish of Saint Luke, at Saint John's, near the Rapids, without the consent in writing of the said Honorable Robert Jones, his heirs, executors, curators, administrators or assigns, nor on any terms and conditions, except such as may be or may have been expressed in any such written consent.

Proviso as to Roads.

Proviso: as to Jones' Bridge at St. Johns.

Punishment of persons injuring the works of the Company.

IV. And be it enacted, That if any person or persons shall wilfully or maliciously break, throw down or destroy any wire, post, erection, machine, device or work now erected, belonging to the said Company, or to be erected or made by virtue of this Act, to the prejudice of the said Company, or shall do any other wilful act, hurt or mischief, to disturb, hinder or prevent the carrying into execution, supporting, or maintaining of any of the works connected with the said Electro-Magnetic Telegraph, every such person or persons so offending, shall forfeit and pay to the said Company, treble the value of the damage proved by the oath of two or more credible witnesses to have been done, such damages, together with costs of suit on that behalf incurred, to be recovered on information, by summary proceeding before two or more Justices of the Peace for the District in which the offence shall have been committed or the offender shall be, in the same manner, and in the same form, and with the same rights and provisions, with regard to appeal or otherwise, as contained in the Act of this Province, passed in the Session held in the fourth and fifth years of her Majesty's Reign, intituled *An Act for consolidating and amending the Statutes in this Province relative to offences against the person*, or in any Court of Law in this Province, having jurisdiction competent to the same; and in case of default of payment, such offender or offenders shall and may be committed to the Common Gaol of the District, for any time not exceeding six months, at the discretion of the Court before which such offender shall be convicted.

V. And be it enacted, That a share in the Capital Stock of the said Company, shall be twelve pounds ten shillings ; and the Capital Stock of the Company shall be five thousand pounds, current money of Canada, divided into four hundred shares ; and the said Capital Stock shall be increased from time to time, should a majority of Shareholders consider it necessary, and that such shares shall be transferable in the books of the said Company only, and shall be deemed personal property, and as such shall and may be disposed of, and shall, like other personal property, be subject to execution and sale for the satisfaction of debts.

Amount of Shares and Capital Stock ; increase thereof, &c.

VI. And be it enacted, That the stock, property, affairs and concerns of the said Company shall be managed and conducted by five Directors, one of whom shall be chosen President, who shall hold their offices for one year only, unless re-elected, and such Directors shall be Stockholders, and be elected on the third Tuesday of January in every year, at such place in the City of Montreal, and at such hour as a majority of the Directors for the time being shall appoint ; and public notice shall be given by the said Directors, in two or more newspapers of the Province, as the Directors may think fit, of such time and place, not less than ten-days previous to the time of holding such election ; and the said election shall be held and made by such of the Stockholders of the said Company as shall attend for that purpose, in their own proper person or by proxy, and all elections for Directors shall be by ballot, and the five persons who shall have the greatest number of votes at any election shall be Directors ; and if it shall happen at any election that two or more persons have an equal number of votes, in such manner that a greater number than five shall by plurality of votes appear to be chosen as Directors, then the Shareholders hereinbefore authorized to hold such election shall proceed by ballot a second time, and by plurality of votes determine which of the said parties so having an equal number of votes shall be the Director or Directors, so as to complete the whole number of five ; and the said Directors so soon as may be after the said election shall proceed in like manner to elect one of their number to be President, and the said President with two others of the said Directors shall form a *quorum* for the transaction of business connected with the said Company ; and if any vacancy or vacancies shall at any time happen among the Directors or in the office of President, by death, resignation or removal from the Province, such vacancy or vacancies shall be filled for the remainder of the year in which they may happen by a Stockholder or Stockholders to be nominated by a majority of the Directors : Provided always, that no person shall be eligible to be a Director who shall not be a Stockholder to the amount of at least ten shares.

Affairs to be managed by Five Directors.

Elections.

If there be a tie.

Election of President.

Quorum.

Vacancies.

Proviso.

VII. And be it enacted, That each Stockholder shall be entitled to one vote for each and every share, not exceeding fifty, he or she shall have held in his or her own name at least thirty days prior to the time of voting.

What votes each Stockholder shall have.

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

Provision for failure to elect on any day.

Limitation as to contracts, &c.

IX. And be it enacted, That no Director, Officer or Agent of the said Company, shall be authorized to contract any debt or obligation creating a charge upon the members individually, or upon any other fund than the Capital Stock subscribed, or other property and income of the Company, and this limitation of power shall be incorporated in every contract made in the name or upon the responsibility of the said Company.

Directors to fix charges. Property, &c. vested in the Company.

X. And be it enacted, That it shall and may be lawful for the Directors of the said Company, or a major part of them, from time to time to fix and regulate the charges or dues to be received by the said Company for the transmission and delivery of communications by the said Electro-Magnetic Telegraph, and by their clerks and other officers and servants to ask for, demand, receive, recover and take the same; and that the said Electro-Magnetic Telegraph and the said charges and dues for the transmission of such communications and all posts, wires and materials of any kind which have been or shall from time to time be used, got or had for constructing, building, maintaining or repairing the same, shall be and are hereby vested in and shall be the property of the said Company and their successors for ever, notwithstanding the said posts or any other part of the apparatus or machinery of the said Telegraph be fixed in or to any land or real property not belonging to the said Company.

Company to establish Stations when required, upon certain conditions.

XI. And be it enacted, That it shall and may be lawful for the said Company, and they are required to establish and keep up a Station in any of the said Towns or Villages through which the said line shall pass, for the purpose of communicating with other Stations, upon request to be made by the inhabitants of the said Town or Village to that effect, to be agreed upon at a public meeting to be held for that purpose, or if the said Town or Village be incorporated, then upon the request of the Corporation of the said Town or Village: Provided always, that the said Company shall not in any case be considered liable to be called upon to establish such Station or keep the same up, unless they shall first be guaranteed a return of at least ten per cent on the expense to which they may be put for establishing and keeping up such Station, and the sufficiency of the said guarantee shall in case of disagreement be determined on by a Circuit Judge of the District in which the said Town or Village is situated.

Directors to declare dividends, render accounts, &c.

XII. And be it enacted, That it shall be the duty of the Directors to declare or withhold half-yearly dividends of so much of the profits of the said Company as to them or a majority of them shall appear advisable, and at the General Meeting of the Stockholders of the said Company on the third Tuesday in the month of January in each year, they shall render an exact and particular statement of the affairs, debts, credits, profits and losses of the said Company, such statement to appear on the books and to be open to the inspection of any Stockholder at his or her reasonable request.

Directors to make By-laws, appoint Officers, &c.

XIII. And be it enacted, That the Directors for the time being or a major part of them, shall have power to make and subscribe such rules and regulations as to them shall appear needful and proper, touching the duty and conduct of the officers, clerks and servants employed by the said Company, and shall also have power to appoint as many officers, clerks and servants for carrying on the said business, and with such salaries and allowances as to them shall seem meet, and that such rules and regulations shall bind the members of the Corporation, their officers and all parties concerned, provided that they be not repugnant to the laws of Lower Canada or to this Act.

XIV. And be it enacted, That the Company may be dissolved by a majority of four fifths of the Shareholders in number and value, at a General Meeting called for such purpose, and of which public notice shall be given by advertisement in not less than two newspapers in Montreal, and in such other newspapers in the Province as the Directors shall think fit, at least sixty days before such meeting is held, and in the event of the Company being dissolved, the existing Directors shall be empowered to realize all properties in the name of the Company, and the proceeds, deducting salaries and all expenses, shall be divided amongst the Shareholders in proportion to their several interests.

Company may be dissolved on certain conditions, &c.

XV. And be it enacted, That the present Directors elected by the original Stockholders to manage the affairs of the said Company until an Act of Incorporation should be obtained, that is to say: Hannibal H. Whitney, President; William Workman, Charles Lindsay, Hector Russel and Edwin Atwater, shall be and are hereby constituted Directors for managing the affairs of the said Company until new Directors shall be elected under and by the provisions of this Act in January next, and that they shall have, possess and exercise all the powers which are given by this Act to the Directors to be hereafter chosen under its provisions.

Present Directors to continue until others are elected.

XVI. Provided always, and be it enacted, That it shall be lawful for the Governor of this Province, or any officer or person by him thereunto authorized, at all times when the exigencies of the public service shall make it expedient so to do, to take the exclusive use of the said Telegraph and of the services of the said Company and its Officers, making reasonable compensation to the Company; and that no further provision which the Legislature may deem it expedient to make with regard to the said Telegraph for the protection of the public, shall be deemed an infringement of the rights of the said Company.

Government may take exclusive possession of the Telegraph.

XVII. And be it enacted, That this Act shall be a Public Act, and as such shall be judicially noticed by all Judges and Justices of the Peace and others whom it may concern, without being specially pleaded.

Public Act.





ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CLXXXII.

An Act to incorporate *The Quebec Gas Company.*

[30th May, 1849.]

WHEREAS by an Act of the Legislature of this Province, passed in the Session held in the Ninth year of Her Majesty's Reign, and intituled, *An Act for Lighting the City of Quebec with Gas*, it was among other things enacted, that it should and might be lawful to and for the Corporation of the Mayor and Councillors of the City of Quebec to establish Gas Works in and for the said City; and also, before or after the said Gas Works were commenced, to lease, assign, transfer and make over the rights, privileges, powers and authorities thereby conferred, for such period not exceeding Twenty Years, and upon such terms and conditions as might be established by a By-law to be by them made in that behalf; And whereas on the Ninth day of April, in the year of Our Lord One thousand eight hundred and forty-seven, at a Special Meeting of the Council of the said City of Quebec, held at the City Hall, in the said City, a By-law was in due form made to establish the terms and conditions upon which the powers vested in the said Mayor and Councillors of the City of Quebec to establish Gas Works in and for the said City of Quebec, by the said in part recited Act, should or might be assigned to a certain Association of persons called the Quebec Gas Company: And whereas in and by a certain Act, Deed or Instrument of Assignment duly made and executed before John Greaves Clapham, Esquire, and another, Public Notaries, and bearing date at the said City of Quebec, on the Twenty-ninth day of October, in the year aforesaid, the said Mayor and Councillors of the City of Quebec, did lease, assign, transfer and make over unto the said Quebec Gas Company, all and singular the rights, privileges, powers and authorities in and by the said Act conferred for and during the term or period of twenty years, to be computed from the First day of November, in the year last aforesaid, subject to the terms and conditions in the said By-law specified, and to the proviso or agreement for the re-purchase of the same, in the manner in the said Act, Deed or Instrument expressed and declared: And whereas the said Gas Works have been constructed by the said Quebec Gas Company upon a site given and granted by the said Mayor and Councillors of the City of Quebec for that purpose in the Lower Town of the City of Quebec, in pursuance of the agreement contained in the aforesaid Act, Deed or Instrument: And whereas the Honorable William Walker, Chairman of the Directors of the said Quebec Gas Company, and Robert Cassels, William Petry, Henry Pemberton, James McKenzie, Archibald Laurie, and Charles Langevin, all of the said City of Quebec, Esquires, Directors of the said Company, have by their Petition prayed that they and such others as are now or hereafter may

be

Preamble.
9 Vict. c. 74.

be associated with them in their undertaking, may be incorporated as a Company, under the style and title hereinafter mentioned, for the purpose of supplying the said City with Gas: And whereas the Mayor and Councillors of the said City of Quebec have signified their consent to the establishment of the said Company for the general benefit of the inhabitants of the said City: And whereas it is expedient to grant the prayer of the said Petitioners: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the said William Walker, Robert Cassels, William Petry, Henry Pemberton, James McKenzie, Archibald Laurie, and Charles Langevin, and such other persons as now are or shall hereafter become Shareholders in the said Company hereby established, shall be and are hereby ordained and constituted a body corporate and politic by the name of *The Quebec Gas Company*, and by that name they and their successors, being such Shareholders, shall and may have perpetual succession and a Common Seal, with full power to make, change, break or alter the same at their pleasure; and shall and may by the same name sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended in all Courts and places whatsoever, and shall and may have full power to purchase, take and hold personal and real property for the purposes of the said Company, and for the erection, construction and convenient use of their Gas Works, and also to sell and alienate such personal and real property, and to purchase, take and hold other instead thereof for the purposes and uses aforesaid: Provided always, that such real property to be holden by the said Company shall be so holden for the purposes and business of the said Company as hereinbefore mentioned, and for no other purposes whatsoever; and that the total yearly value of the real property to be so holden at any one time shall not (over and above the value of the works thereon erected) exceed one thousand pounds currency.

Certain persons incorporated.

Corporate name and powers.
Property.

Proviso as to real property.

Capital of the Company.

Proviso for increase.

Power to borrow money and pledge property.

II. And be it enacted, That the Capital of the said Company shall be the sum of twenty thousand pounds currency, in shares of fifty pounds currency each, which said sum hath been raised and contributed among the present Shareholders, and hath been appropriated to the purpose of constructing the said Gas Works, and shall continue so appropriated and to the completing and maintaining of the same, and to the purposes of this Act, and to no other object or purpose whatever; Provided always, that if the said sum of twenty thousand pounds currency should be found insufficient for the purposes of this Act, it shall be lawful for the said Company, should a majority representing two thirds of the shares at a Special Meeting of the Shareholders called for that purpose, consider it necessary to increase their Capital Stock by a further sum not exceeding twenty thousand pounds currency, either among themselves or by the admission of new Shareholders, such new stock being divided into shares of fifty pounds currency each; Provided also, that in the event of difficulty arising in procuring subscribers for such increase of capital, it shall be lawful for the Directors for the time then being of the said Company, to borrow a sum or sums of money for the purposes aforesaid, not exceeding the sum of ten thousand pounds currency, and to pledge and hypothecate the property and income of the said Company, for the repayment of the sum so borrowed, and the interest thereon.

III.

III. And be it enacted, That the Directors hereinbefore named shall continue in Office until the First Monday in the Month of March, in the year following that in which this Act is passed, or until the next General Election, if no Election be had on that day, unless they shall sooner resign, be removed, or become disqualified under the provisions of this Act.

Present Directors continued for a time.

IV. And be it enacted, That a General Meeting of the Shareholders in the said Company shall be held on the First Monday in the Month of March, in the year following that in which this Act is passed, and on the same day in every succeeding year, at the Principal Office of the said Company, or at such other place as shall be appointed by the By-laws of the Company then in force, of which Meetings and the time and place of holding the same, public notice shall be given by the Manager or Clerk of the said Company, by Advertisement in one or more of the Newspapers published in the City of Quebec, seven clear days at least before the day of election, and at such meeting or meetings the said Shareholders shall choose by ballot and by a majority of votes, seven Directors, being each a proprietor of not less than five shares in the Stock of the said Company, for managing the affairs of the said Company, or so many as shall be required to supply the places of those who shall then go out of office as hereinafter mentioned.

Annual General Meetings when to be held.

Election.

V. And be it enacted, That at the first General Meeting to be held as aforesaid, the said Shareholders shall elect and choose as aforesaid, from the Shareholders qualified as required by this Act, to be Directors, seven persons to be Directors for managing the affairs of the said Company, which said Directors shall go out of office by rotation in the following manner, that is to say : on the first Monday in the month of March, in the year following that in which the election shall take place, three of the said Directors shall go out of office, and those who shall then go out of office shall be the Directors who shall have been elected by the smallest number of votes, and on the first Monday in March in the following year three others of the said Directors shall go out of office, and those who shall then go out of office shall be the Directors who shall have been elected by the next smallest number of votes ; and on the first Monday in March in every subsequent year three Directors, being those who have been longest in office, without re-election, shall go out of office ; and if any two or more of the said Directors shall have been the same length of time in office, then such of them as shall have been elected by the smallest number of votes shall first go out of office ; and if any two or more of such Directors shall have been elected by an equal number of votes, then it shall be determined by a majority of the whole body of Directors, which of the said Directors so elected shall then go out of office ; and in each instance the place of the retiring Directors shall be supplied by the election of a like number of Directors in the manner herein provided ; Provided always, that every Director going out of office by rotation, or otherwise ceasing to be a Director, may be re-elected, if then qualified as required by this Act, and after such election he shall, with reference to going out by rotation, be considered as a new Director.

Election of Directors.

Going out of Office by rotation.

Filling vacancies.

May be re-elected.

VI. And be it enacted, That if any of the Directors die or resign or be disqualified or cease to be a Director from any other cause than that of going out of office by rotation, the place of such Director shall be supplied by the election of another from the Shareholders qualified as required by this Act to be Directors, at a Special Meeting of the Shareholders to be called for that purpose by the Directors within three months from

Supplying vacancies occasioned by other causes.

from the happening of such vacancy ; and every Director so elected shall continue in office only so long as the person in whose place he is elected would have been entitled to continue in office.

Election of a
Chairman.

VII. And be it enacted, That at the first meeting of the Directors after each annual election they shall, by a majority of the votes of the Directors present, elect one of their body to be their Chairman, who shall preside at the meetings of the Directors until the next annual election ; and in case the Chairman die, or resign, or cease to be a Director, or otherwise become disqualified to act as such, the Directors present at the meeting next after the occurrence of such vacancy shall choose some other of their body to fill such vacancy, and the Chairman so elected shall continue in office so long only as the person in whose place he was elected would have been entitled to continue Chairman ; and if at any meeting of the Directors the Chairman be not present, one of the Directors present shall be elected Chairman of such meeting by the majority of the votes of the Directors present at such meeting.

Quorum of
Directors.

Proviso.

VIII. And be it enacted, That all powers vested in the Directors under this Act may be exercised by any three or more of the Directors present at any meeting holden in pursuance of this Act, or of the By-laws then in force, and no business shall be transacted at any meeting of the Directors unless the said number of Directors be present : Provided always, that on such occasions the Directors shall always vote *per capita*, and not according to the number of shares they hold, and the Chairman or person presiding at any meeting of the Directors or of the Shareholders shall in case of a tie have a casting vote,

Statements to
be submitted
at annual
Meetings.

Proviso for
failure of
Election of
Directors.

IX. And be it enacted, That at the General Meeting of the Shareholders to be held annually, for the purpose of electing Directors as aforesaid, on the first Monday in the month of March in each year, and before the election of new Directors in the place of the retiring Directors, the Directors for the then past year shall exhibit a full and unreserved statement of the affairs of the Company and of the funds, property and debts due to and by the said Company, which said statement shall be certified by the Chairman under his Hand and Seal ; Provided always, that in the event of there being no election of Directors on the first Monday in March in any year in consequence of the said Shareholders neglecting to attend in conformity with the requirements of this Act, or from any other cause, then and in that case the Directors who would on that day have retired from office by rotation shall continue and remain in office until an election shall take place at a future Special Meeting of the said Shareholders to be called for that purpose in the manner provided by the By-laws of the Company then in force.

Powers of the
Directors.

Officers.

By-laws.

Special
Meetings.

X. And be it enacted, That the Directors shall and may have the power to appoint a Manager, Clerks and such other persons as may appear to them necessary for carrying on the business of the said Company, with such powers and duties, salaries and allowances to each as shall seem meet and advisable, and also shall and may have the power to make and repeal or alter such By-laws, to be binding upon Members of the Company or their Servants, as shall appear to them proper and needful, touching the well ordering of the said Company, the management and disposition of its stock, property, estate and effects ; the calling of Special Meetings of its Shareholders or of meetings of the Directors and other matters connected with the proper organization of the said Company, and

and the conduct of the affairs thereof, and also shall and may have the power to make calls for instalments on shares, in any new stock in the said Company, subject to the provisions hereinafter made; and to declare such yearly or half-yearly dividends out of the profits of the said undertaking as they may deem expedient; and to make contracts on behalf of the Company or by such By-laws to empower the Chairman or any Director or Officer to make contracts on behalf of the Company, and to affix (if need be) the Common Seal of the Company to such contracts, and generally to manage the affairs of the said Company, and to do or empower others to do whatever the Company may lawfully do under this Act, unless it be otherwise herein provided. Provided always, that such By-laws shall be in no wise inconsistent with the true intent and meaning of this Act, and the powers hereby granted or repugnant to the laws of this Province; and shall before they shall have force, be approved by the Shareholders at some Annual or Special Meeting, at which such Shareholders shall have full power to alter or amend the same; And provided also, that until it be otherwise ordered by the By-laws of the Company, a Special Meeting of the Shareholders may be called by the Directors or in their default on being thereunto requested by at least ten of the Stockholders being proprietors together of not less than one hundred shares of the stock of the said Company, then by such ten (or more, as the case may be) Stockholders; the Directors or Stockholders giving at least four weeks' notice thereof in at least two of the public newspapers of the City of Quebec, and specifying in the said notice the time and place of such meeting, together with the objects thereof.

Instalments.
Dividends.
Contracts.

Proviso as to
By-laws.

Proviso as to
Special Meet-
ings.

Notice thereof.

XI. And be it enacted, That any Shareholder may vote by a proxy, being also a Shareholder duly appointed in writing, or in person, and all elections shall be by ballot; and all questions to be decided at any Annual or Special Meeting of the Shareholders shall be so decided by a majority of votes; and on every occasion when the votes of the Shareholders are to be given, each Shareholder shall for every share under and not exceeding twenty, have one vote, and for shares exceeding twenty, one vote for every three shares; and no Shareholder shall be entitled to give a greater number of votes than thirty, and no Stockholder shall be allowed to hold more than two hundred and fifty shares; Provided always, that no Stockholder shall be allowed to vote for any share of stock which shall not have been held by him for three months at least before the period of giving any such vote.

Voting at an-
nual or special
Meetings.

Number of
votes and of
shares to be
held by any
one party,
limited.

Proviso.

XII. And be it enacted, That all subscriptions for shares in the Capital Stock of the said Company, or to the undertaking for carrying out which the said Company is incorporated, shall be good and valid and binding on the Shareholders whether made before or after the passing of this Act; and the several persons who may hereafter subscribe for shares in any new stock in the said undertaking or Company, shall and they are hereby required to pay the sum or sums of money by them respectively subscribed, or such part or portions thereof as shall from time to time be called for by the Directors of the said Company, under and by virtue of the powers and directions of this Act, to such person or persons and at such times and places as shall be directed or required by the Directors; and in case any person or persons shall neglect or refuse to pay the same at the time and in the manner required for that purpose, it shall be lawful for the Directors to cause the same to be sued for and recovered in any Court of Law in this Province having jurisdiction in civil cases to the amount; and in any such action, whether for the subscriptions already made or hereafter to be made, it shall not be necessary to set forth the special matter in the declaration, but it shall be

Subscriptions
before the
passing of this
Act to be
valid.

Recovery of
subscriptions.

What it shall
be sufficient to
avert,

sufficient

and to prove in such actions.

sufficient to allege that the defendant is the holder of one or more shares in the stock (stating the number of shares), and is indebted to the Company in the sum to which the calls in arrear may amount; and in any such action it shall be sufficient to maintain the same that the signature of the defendant to some book or paper by which it shall appear that such defendant subscribed for a share, or a certain number of shares, of the stock of the said Company or undertaking, be proved by one witness, whether in the employment of the Company or not, and that the number of calls in arrear have been made, and the suit may be brought in the corporate name of the Company.

Amount and periods of instalments.

Proviso as to intervals between calls.

Forfeiture for non-payment of instalments.

Transfer of forfeited shares.

Proviso: forfeitures to be declared at a Meeting.

Effect of forfeiture.

XIII. And be it enacted, That no one instalment to be paid on account of the shares in such new stock of the said Company shall exceed ten pounds currency, on each share, and notice thereof shall be given by advertising in two newspapers during at least four weeks before such instalment shall be called for; Provided always, that no instalment shall be called for, except after the lapse of a fortnight from the time when the last instalment was called for; and if any person or persons shall neglect or refuse to pay his or their share of such money to be so paid in as aforesaid, at the time or place fixed and appointed by the Directors, such person or persons so neglecting or refusing may be sued as aforesaid, or, at the option of the Directors, shall thereby incur a forfeiture of not more than ten, nor less than five per cent on the amount of his or their respective share or shares; and if such person or persons shall refuse or neglect to pay their proportion of the instalments demanded, for the space of two calendar months after the time fixed for the payment thereof, then and in that case, such person or persons shall forfeit his or their respective share or shares upon which former instalments shall have been paid, and such share or shares shall be sold by order of the Directors, by public auction, and the proceeds of the sale, after deducting costs, and the forfeiture above mentioned, shall be paid over to such defaulter; and the President or manager of the said Company shall have power to transfer the stock to the purchaser or purchasers thereof; Provided always, that no advantage shall be taken of the forfeiture of any share or shares unless the same shall be declared to be forfeited at some General or Special Meeting of the Shareholders assembled at any time after such forfeiture shall have been incurred; and every such forfeiture shall be an indemnification to and for every proprietor so forfeiting, against all action or actions, suits or prosecutions whatever, to be commenced or prosecuted for any breach of contract or other agreement between such proprietor and the other proprietors, with regard to carrying on the said Gas Works.

Shares how to be transferred.

Proviso: transfer to be registered.

Non-liability of Shareholders.

XIV. And be it enacted, That the shares in the stock of the said Company shall be assignable and transferable, according to such rules, and subject to such restrictions and regulations as shall from time to time be made and established by the By-laws of the Company, and shall be considered as personal property notwithstanding the conversion of the funds into real estate, and shall go to the personal representatives of such shareholders: Provided also, that such transfer shall not be valid unless entered and registered in a book or books to be kept for that purpose in the manner provided by the said By-laws.

XV. And be it enacted, That no Shareholder in the said Company shall be in any manner whatsoever liable for or charged with the payment of any debt or demand due by the said Company, beyond the extent of his, her or their share in the capital of the said Company not paid up.

XVI.

XVI. And be it enacted, That it shall and may be lawful for the said Company after two days' notice in writing to the Mayor of the said City of Quebec, or in his absence to the City Clerk, to break up, dig and trench so much and so many of the streets, squares and public places of the said City of Quebec, as may at any time be necessary for laying down the mains and pipes to conduct the gas from the works of the said Company to the consumers thereof, or for taking up, renewing, altering or repairing the same when the said Company shall deem it expedient, doing no unnecessary damage in the premises, and taking care, as far as may be, to preserve a free and uninterrupted passage through the said street, squares and public places, while the works are in progress, and making the said openings in such parts of the said streets, squares and public places, as the Road Surveyor of the said City shall reasonably permit and point out, also placing guards or fences with lamps, and taking all necessary precautions for the prevention of accidents to passengers and others, which may be occasioned by such openings; also finishing the work, and replacing the said streets, squares and public places to the satisfaction of the said Road Surveyor in as good condition as before the commencement of the work, without any unnecessary delay.

Power to break up and open streets.

Precautions to be observed.

XVII. And be it enacted, That where there are buildings within the said City of Quebec, the different parts whereof shall belong to different proprietors, or shall be in possession of different tenants or lessees, the said Company shall have power to carry pipes to any part of any building so situate, passing over the property of one or more proprietors or in possession of one or more tenants, to convey the gas to that of another, or in the possession of another, the pipes being carried up and attached to the outside of the building; and also to break up and uplift all passages which may be a common servitude to neighbouring proprietors, and to dig or cut trenches therein for the purpose of laying down pipes or taking up or repairing the same; the said Company doing as little damage as may be, in the execution of the powers granted by this Act, and making satisfaction thereafter to the owners or proprietors of buildings or other property, or to any other party, for all damages to be by them sustained in or by the execution of all or any of the said powers, subject to which provisions this Act shall be sufficient to indemnify the Company or their servants, or those by them employed for what they or any of them shall do in pursuance of the powers granted by this Act.

When buildings are possessed by different parties:

Satisfaction to be made for damages.

XVIII. And be it enacted, That the said Company shall so construct and locate their Gas Works, and all apparatus and appurtenances thereunto appertaining or therewith connected and wheresoever situated, as in no wise to endanger the public health, convenience or safety; and the said Gas Works, apparatus and appurtenances, or so much thereof as shall be within the said City, shall moreover be at all reasonable times subject to the visit and inspection of the Municipal Authorities thereof, or their officers, reasonable notice thereof being previously given to the said Company; and the said Company and their servants or workmen shall at all times obey all just and reasonable orders and directions they shall receive from the said Municipal Authorities in that respect, under a penalty of not more than five pounds, nor less than one pound currency, for each offence in refusing or neglecting to obey the same, to be recovered from the said Company at the suit and for the use of the Corporation of the City of Quebec, in any Court of competent civil jurisdiction, except a Court constituted under and by virtue of any Act or Acts incorporating the City of Quebec.

Construction of Gas works.

Visitation by the Municipal Authorities.

Penalties for disobedience.

Power to construct and carry on works, &c.

XIX. And be it enacted, That it shall be lawful for the said Company, from time to time, to make, construct, lay down, maintain, alter or discontinue such retorts, gasometers, receivers and buildings, cistern, engines, machines, and other apparatus, cuts, drains, sewers, water courses, reservoirs, machinery and other works, and also such houses and buildings upon the lands hereby authorized to be held by the said Company, and do all such other acts necessary and convenient, as they shall think proper, for supplying the inhabitants, within the limits of this Act, with Gas; and also to sell, dispose of, or manufacture the refuse of any such Gas, and any coke, tar, surplus coal, or coal not found to answer for making Gas.

To dispose of surplus, materials, &c.

Power to lay pipes.

XX. And be it enacted, That it shall be lawful for the Company to lay any pipes, branches or other necessary apparatus from any main or branch pipe into, through or against any building for the purpose of lighting the same, and to provide and set up any apparatus necessary for securing to any building a proper and complete supply of Gas, and for measuring and ascertaining the extent of such supply.

To sell and lease meters, fittings, &c.

Fittings, &c. not to be liable for rent, &c.

XXI. And be it enacted, That it shall be lawful for the said Company to sell, lease, or hire meters, interior or service pipes, or gas fittings of any kind; and no service pipes, fittings or meters, belonging to the said Company, shall be subject to be seized or attached for rent due to any landlord, or be seized in execution for any debt due by any person or persons, to or for whose use or the use of whose house or building the same may be supplied by the Company; any law or practice to the contrary notwithstanding.

Penalty for wilful damage to fittings, &c.

XXII. And be it enacted, That if any person shall wilfully damage, or cause to be damaged, any meter, service pipes or fittings, belonging to the said Company, or shall wilfully alter or impair the same, so that the meter or meters shall indicate less gas than actually passes through the same, such person shall forfeit for every such offence a sum not less than one pound, nor exceeding five pounds, and costs, and shall also defray all expenses necessary in repairing or replacing the said meter, pipes or fittings.

Company may contract with the City for public lights.

XXIII. And be it enacted, That it shall be lawful for the said Company to contract on such terms and for such periods as may be thought proper, with the Corporation of the City of Quebec, for lighting the streets, squares and public buildings and places of the said City with Gas, at such reasonable rates and prices for the general benefit of the City as may be mutually agreed on.

Penalty for wilful damaging street lights, &c.

For waste of Gas.

XXIV. And be it enacted, That if any person shall wilfully remove, destroy, damage, fraudulently alter, or in any way injure any pipe, pedestal, post, plug, lamp or other apparatus or thing belonging to the Company or to any person, or shall wilfully extinguish any of the public lamps or lights, or waste or improperly use, or suffer to be used, any of the gas supplied by the Company, he shall forfeit and pay for every such offence the penalty and expenses mentioned in the twenty-second section of this Act.

Penalty for careless injuries to fittings, &c.

XXV. And be it enacted, That if any person shall carelessly or accidentally break, throw down, or damage any meter, pipe, pedestal or lamp, supplied by or belonging to the Company or any person, or keep the light or lights burning for a longer time than he shall contract to pay for, and shall not on demand make satisfaction to the
Company,

Company, or to such person for the damage done or the excess of gas obtained and used, then it shall be lawful for any Justice of the Peace to summon before him the person against whom any such complaint shall be preferred, and for any two or more Justices upon hearing the allegations and proofs on both sides, or on non-appearance of the person complained against (after proof of his being duly summoned,) to award such sum of money by way of damages to the Company or to such person as the case may require, and the said Justices may deem reasonable, together with the costs, and in case of a neglect or refusal to pay any sum or sums so awarded, within three days after such award, it shall be lawful for any one of the said Justices to issue his Warrant, to cause the same to be levied of the goods and chattels of the person so convicted.

And for deceit
in burning
Gas.

How recover-
able.

XXVI. And be it enacted, That if any person or persons, company or companies, or body corporate supplied with Gas by the Company, shall neglect to pay any rate, rent or charge due to them at any of the times of payment thereof, it shall be lawful for the Company, or any person acting under their authority, to stop the Gas from entering the premises, service pipes or lamps of any such person, company or body, by cutting off the service pipe or pipes, or by such means as the said Company shall think fit, and to recover the said rate, rent or charge, together with the expenses of cutting off the Gas, in any competent Court, by action of debt.

r
Power to cut
off Gas for
non-payment
of dues.

XXVII. And be it enacted, That in all cases where it shall be lawful for the said Company to cut off and take away the supply of Gas from any house, building or premises under the provisions of this Act, it shall be lawful for the Company, their agents or workmen, upon giving twenty-four hours previous notice to the occupier or person in charge, to enter into any such house, building or premises, between the hours of nine in the forenoon and four in the afternoon, making as little disturbance and inconvenience as possible; and to remove, take and carry away any pipe, meter, cock, branch or apparatus, the property of and belonging to the said Company; and also, to enter as aforesaid, between the hours aforesaid, for the purpose of repairing and making good any such house, building or premises, or for the purpose of examining any meter, or examining and repairing any meter, pipe or apparatus belonging to the said Company, or used for supplying their Gas.

Power to enter
premises sup-
plied with
Gas.

On giving
notice.

And to remove
and repair
apparatus.

XXVIII. And be it enacted, That if any person or persons shall lay or cause to be laid any pipe or main to communicate with any pipe or main belonging to the said Company, or in any way obtain or use its Gas, or furnish or suffer it to be furnished to others without the consent of the Directors, or their Officer appointed to grant such consent, he, she or they shall forfeit and pay to the said Company the sum of twenty-five pounds, and also a further sum of one pound for each day such pipe shall so remain; which said sum, together with the costs of suit in that behalf incurred, may be recovered by the said Company, by civil action in any Court of competent civil jurisdiction.

Penalty for
using Gas
without con-
sent of Com-
pany.

XXIX. And be it enacted, That if any person or persons shall wilfully or maliciously break up, pull down, or damage, injure, put out of order or destroy any main pipe, pipe or other works or apparatus, appurtenances or dependencies thereof, or any matter or thing already made and provided, or which shall be made and provided for the purposes aforesaid, or any of the materials used and provided for the same, or ordered to be erected, laid down or belonging to the said Company, or shall in any wise wilfully do
any

Penalty for
wilfully injur-
ing or destroy-
ing the works,
&c.

Or increasing
the supply
of Gas.

any other injury or damage for the purpose of obstructing, hindering or embarrassing the construction, completion, maintaining or repairing of the said works, or shall cause or procure the same to be done, or shall increase the supply of Gas agreed for with the said Company by increasing the number or size of the holes in the Gas Burners, or otherwise wrongfully, negligently or wastefully burning the same, or by wrongfully or improperly wasting the Gas, every such person or persons shall be guilty of a misdemeanor, and on conviction thereof the Court before whom such person shall be tried and convicted shall have power and authority to condemn such person to pay a penalty not exceeding ten pounds currency, or to be confined in the Common Gaol of the District for a space of time not exceeding three months, as to such Court shall seem meet.

In default of
the Company,
the City author-
ities may take
certain precau-
tions and
charge for
expense.

XXX. And be it enacted, That whenever the said Company shall open or break up any Street, Square or Public Place in the said City, and shall neglect to keep the passage of the said Street, Square or Public Place, as far as may be, free and uninterrupted, or to place guards or fences, or to place watchmen, or to take every necessary precaution for the prevention of accidents to passengers or others, or to close or replace the said Streets, Squares or Public Places, without unnecessary delay, as hereinbefore provided, the Road Surveyor shall cause the duty so neglected to be forthwith performed, and the expense thereof shall be defrayed by the said Company on its being demanded by the Road Surveyor, at any time not less than one month after the work shall have been completed in any case, from the Chairman or the Manager of the said Company; or, in default of such payment, the amount of such claim shall and may be recovered from the said Company, at the suit of the Mayor and Councillors of the City of Quebec, by civil action in any Court of competent jurisdiction.

How recover-
ed.

Rights of the
Crown, &c.
saved.

XXXI. And be it enacted, That nothing herein contained shall affect, or be construed to affect, in any way or manner whatsoever, the rights of Her Majesty, Her Heirs and Successors, or of any person or persons, such only excepted as are herein mentioned.

Rights to
extend over
any future
limits of City.

XXXII. And be it enacted, That in case the present limits of the City of Quebec be enlarged by any Act to be passed in the present or any future Session of the Parliament of this Province, it shall be lawful for the said Company to extend their operations over any such enlarged limits of the said City: and the provisions in this Act shall in all respects be applicable to any such enlarged limits or liberties in the same manner and to the same effect as they are made applicable to the present limits of the City of Quebec.

As to state-
ment required
by 9 Vict. c.
74, Sec. 15.

XXXIII. And be it enacted, That the said Company shall produce to the said Corporation of the City of Quebec at the expiration of each year, at the close thereof, and made up to the Thirty-first day of December thereof, an account of the outlay and expenditure incurred by the said Company in establishing the said Gas Works, and a particular statement of the revenue and expenditure of the said Gas Works, in the manner required from the said Corporation and prescribed by the Fifteenth Section of the said Act passed in the Ninth year of Her Majesty's Reign, intituled, *An Act for Lighting the City of Quebec with Gas*.

Agreement
with the Cor-
poration of
Quebec to be
performed.

XXXIV. And be it enacted, That nothing hereinbefore contained shall in any manner affect or impair the covenants or agreements contained in the aforesaid Act, deed or instrument of assignment mentioned and referred to in the preamble of this Act, which said

said covenants and agreements shall be observed, performed, fulfilled and kept by the said Mayor and Councillors of the City of Quebec and by the said Quebec Gas Company, hereby incorporated respectively, according to the true intent and meaning of the said Act, deed or instrument, except in so far as the same shall or may at any time or times be altered or modified by the mutual agreement of the said Mayor and Councillors of the City of Quebec and the said Quebec Gas Company respectively; any thing herein contained to the contrary notwithstanding.

XXXV. And be it enacted, That unless where otherwise specially provided, the penalties to be imposed under the authority of this Act shall be recoverable with costs by complaint before any Justice of the Peace, and on conviction upon the oath of one or more witnesses, or by the confession of the party complained of; and in default of payment of any such penalty and costs, it shall be lawful for the said Justice to issue his Warrant for the distress and sale of the goods and chattels of the offender, or for his imprisonment in the Gaol of the District of Quebec for any period not exceeding one month, unless the said penalty and costs be sooner paid.

Certain penalties how recovered.

XXXVI. And be it enacted, That the penalties by this Act imposed, and not otherwise disposed of, shall be recovered in the name of the Mayor and Councillors of the City of Quebec, and for the use of the Corporation, and shall belong to and form part of the General Funds of the said City, and in no other name and for no other use: And it shall be lawful for the Council of the said City to remit any such fine or penalty, or to accept payment of any such fine or penalty, from any party, without prosecution; and all fines and penalties that may be so paid without prosecution shall form part of the General Funds of the said City.

Penalties to whom to belong.

Council may remit penalties.

XXXVII. And be it enacted, That whenever the word "Oath" is used in this Act, it shall be held to comprehend an Affirmation, if legally made; and the word "Person" or "Persons" shall be taken to comprehend a body politic or corporate, or its lawful agent or agents, as well as an individual; and every word importing the singular number shall, when necessary, be deemed to extend to several persons or things; and every word importing the masculine gender shall, when necessary, extend to a female as well as a male.

Interpretation clause.

XXXVIII. And be it enacted, That this Act be and is hereby declared to be a Public Act, and that the same may be construed as such by all Judges, Justices and Courts in this Province, and shall be judicially taken notice of without being specially pleaded or proved.

Public Act.

XXXIX. And be it enacted, That this Act shall be and remain in force for Fifty Years, and no longer.

Duration.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CLXXXIII.

An Act to amend the Act incorporating the New City Gas Company of Montreal, and to extend the powers of the said Company.

[30th May, 1849.]

WHEREAS it is expedient to amend an Act of the Parliament of this Province, passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, and intituled, *An Act to incorporate the New City Gas Company of Montreal*; And whereas the said New City Gas Company have petitioned that the said Act be amended, and it appears that the said Company have in accordance with the provisions of the said Act, increased their Capital Stock to the sum of fifty thousand pounds currency, and they have prayed to be empowered to create a still further increase in the amount of Capital Stock: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the Capital Stock of the said Company by a vote of the majority of the Stockholders to be present at any General Meeting to be called for that purpose may notwithstanding any thing in the said Act hereby amended contained, be increased by the sum of twenty-five thousand pounds currency, or such less sum as may be resolved on, over and above the sum of fifty thousand pounds currency, to which sum the present Capital Stock of the said Company amounts, making the entire amount to which the said Capital Stock may extend, the sum of seventy-five thousand pounds currency, and the said sum of twenty-five thousand pounds currency, shall be divided into two thousand five hundred shares of ten pounds currency each, and may be raised either by the present Shareholders, by voluntary subscription among themselves, or by the admission of new members, or in both those ways, and the said Stock shall be payable by such instalments, at such times, and in such proportions and manner, and after such notice, and with or without interest from the days on which payment is required, as the Directors of the said Company shall see fit to direct, such calls nevertheless to be subject to the restrictions and limitations contained in the eleventh section of the Act hereby amended.

Preamble.

Act 10 and 11
Vict. c. 79.

The Capital
Stock of the
Company may
be increased
by an amount
not exceeding
£25,000.

II. And be it enacted, That the said additional Capital Stock to be so raised as aforesaid shall be considered as part of the original Capital Stock of the said Company, and shall,

Additional
Capital to be

deemed part of
the original
Stock.

shall, as well as the subscribers therefor and owners thereof, be subject to all and every the same provisions, enactments and penalties in all respects, as well with reference to the payment and enforcing the payment of calls, as to the forfeiture of shares on non-payment of calls or otherwise, as are contained in the Act hereby amended, and are thereby made applicable to the original Capital Stock of the said Company, and each and every of the said enactments and provisions shall apply to the additional Capital hereby authorized to be raised, and payment of the said calls shall and may be enforced, and the penalties incurred in all respects, in the same manner as provided in the Act hereby amended, save and except in so far as may be otherwise provided in this Act with respect to such payments, penalties and forfeitures or otherwise.

To what purposes such
additional Capital shall be
applied.

III. And be it enacted, That the whole amount of additional Stock to be raised as aforesaid, shall, after the payment of all necessary and incidental expenses, be expended in payment of any claims due by the said Company for any property or works now acquired or in progress, or shall be applied in extending and improving the Works of the Company, or in erecting any new works that may be necessary from time to time, for furnishing a supply of Gas to the City and Suburbs of Montreal, agreeably to the purposes and intendment of this Act and the Act hereby amended.

Non-liability
of Shareholders.

IV. And be it enacted That no Shareholder in the said Corporation erected by the Act hereby amended, and herein spoken of, shall be in any manner whatsoever liable for or charged with the payment of any debt or demand due by the said Corporation, beyond the amount of his, her or their subscribed share or shares in the Capital Stock of the said Corporation.

Company may
borrow money
and pledge
their property.

V. And be it enacted, That it shall and may be lawful for the Company to borrow, either in this Province or out of it, and either in sterling money or currency, and at such rate of interest, even exceeding six per cent, as the Directors may from time to time agree upon, on mortgage, bond or debenture, such sums of money, from time to time, as shall not exceed in all, the sum of twenty thousand pounds currency, and if, after having borrowed the whole or any part of such money, the Company pay off the same, it shall be lawful for them again to borrow the amount so paid off, and so, from time to time, to re-borrow, provided that the whole amount borrowed do not at any one time exceed the sum of twenty thousand pounds currency, and for securing the re-payment of the money so borrowed, with interest, it shall be lawful for the said Company to mortgage, secure and assign real estate, works, rates, revenues and rents, and the future calls on the Shareholders of the Company, or to give bonds or debentures, in such manner as shall appear most expedient, payable either in currency or sterling money, and either within or without this Province, and such bonds, debentures or other securities to be granted, may be made payable to bearer, or made transferable by simple endorsement or otherwise, as the Directors see fit: Provided always, that no such bond, debenture or other security shall be made or granted for a less sum than one hundred pounds currency.

Proviso: no
Debenture to
be for less than
£100.

How the parties
lending
money to the
Company shall
be secured, &c.

VI. And be it enacted, That the respective obligees, in such bonds or debentures, whereby the rents, revenues or future calls, or payments due to the said Company, shall be secured, shall proportionally, according to the amount of moneys secured, thereby be entitled to be paid out of the rents, revenues or future calls of the Company, the respective sums in such bonds or debentures mentioned, and thereby intended to be secured,

secured, without any preference one above another, by reason of priority of date of any such bond or debenture, or of the meeting at which the same was authorized or otherwise howsoever, and no such bonds or debentures, although they should comprise future calls on Shareholders, shall preclude the Company from receiving and applying such future calls to the purposes of the Company, so long as the money due on all such bonds or debentures does not exceed the amount of all the calls still remaining unpaid.

VII. And be it enacted, That notwithstanding any thing in the Act hereby amended contained, it shall and may be lawful for the Directors of the said Company, from time to time, and as often, and when they shall see fit, without the formality of passing a By-law to that effect, specially, by a Resolution to that effect, to be entered upon the Books of the said Company, to authorize the President and Vice-President, or any two or more of the Directors of the said Company, to sign such particular bonds, mortgages, contracts or instruments as it may in the opinion of the Directors, be necessary or expedient so to sign, and to affix the Common Seal of the said Company thereto; and it shall also be lawful in like manner, for the President and Vice-President, or any two or more Directors, to be from time to time authorized as aforesaid, to draw, sign or accept such particular promissory notes, or bills of exchange, for the purposes of the said Company without seal, as it may, in the opinion of the Directors, be necessary or expedient so to sign, and all such bonds, contracts, mortgages and instruments so signed and sealed by the persons authorized as aforesaid, and all such notes and bills so signed, drawn or accepted by the persons authorized as aforesaid, shall be valid and binding on the said Company, and be held to be the act and deed of the said Company: Provided, that no bond, bill, note, contract or other instrument, signed, or signed and sealed by any such Officer or Officers of the said Company, shall be of any force or effect or binding upon the said Company, unless the same shall have been so signed, or signed and sealed under the authority of the Directors, by a resolution as aforesaid, nor in any action, suit or proceeding, to which the said Company shall be a party, shall the election of the President, Vice-President or Directors of the said Company, be liable to be questioned by any party except the said Company, nor shall it be necessary for the Company in any suit, to prove the election or appointment, or authority of any President, or Vice-President or any Director, but the same shall be presumed, unless disputed by the said Company: And provided also, that in any action, suit or proceeding on any such bond, bill, note, contract or other instrument so signed, or signed and sealed as aforesaid, or in which the said Company may be engaged, Copies of the Minutes of Proceedings and Resolves of the Proprietors of Shares of the Capital Stock of the said Company at any General or Special Meeting, or of the Directors at their Meetings, extracted from the Minute Book or Books kept by the Secretary of the Company, and by him duly certified on oath before a Judge of one of Her Majesty's Courts of Law in Lower Canada, or before a Commissioner duly authorized to take Affidavits to be used in the Court in which such action, suit or proceeding is brought, to be true Copies extracted from such Minute Book or Books, and bearing the Seal of the said Company, shall be held as conclusive evidence of the facts therein stated as well as of the election of any President, Vice-President or Director therein named.

VIII. And be it enacted, That all Acts done by any meeting of the Directors, or by any person acting as a Director shall, notwithstanding it shall afterwards be discovered that there was some defect or error in the appointment or qualification of any person attending such meeting as a Director or acting as aforesaid, be as valid as if such person had been duly appointed and was qualified to be a Director.

Directors may empower the President, &c., to sign bonds, notes, mortgages, &c.

Proviso: No other bonds, &c., to be valid: authority of persons signing to be questioned only by the Company.

Copies of certain papers attested on oath to be evidence.

Validity of Acts not to be affected by certain defects, &c.

What number of Directors shall retire annually.

Proviso.

Stockholders not to vote on stock held less than six months.

As to Stockholders indebted to the Company.

Dividends not to affect the Capital Stock.

Directors may declare forfeiture of shares in certain cases.

And such shares may be sold.

Manager, &c, to represent the Company in certain proceedings.

IX. And in amendment of the fourth Section of the said Act—Be it enacted, That only four out of the thirteen Directors shall retire each year, and the order of retirement of the thirteen now in office shall be decided by lot before the next annual meeting, and thereafter they shall retire by rotation, and the annual election shall take place only for four Directors instead of thirteen as provided by the said Act; Provided always, that all Directors retiring at any time shall be eligible for re-election.

X. And be it enacted, That notwithstanding any thing in the said Act hereby amended contained, it shall not be lawful for any Stockholder at any meeting to vote on any Stock which shall not have been held in his own name, or the name of a firm, in which he may be a partner, or by the party for whom any person shall vote by proxy, for at least six months previous to the time at which such vote may be sought to be given; nor shall it be lawful for any Stockholder who is or shall become indebted to the Company for gas, rent, fixtures or otherwise, to transfer any Shares of Stock held by him until payment be made to the Company of all sums of money due by such Stockholder.

XI. And be it enacted, That the Company shall not make any dividend whereby their Capital Stock will be in any degree reduced, nor shall any dividend be paid in respect of any share until all calls then due in respect of that or any other share held by the person to whom such dividend may be payable shall have been paid; and it shall be lawful for the Company to deduct from the amount of dividend payable to any person who may not have paid the instalments on the day the same were respectively called for, on any shares at any time owned by him such sum as would be equal to interest on the unpaid call or calls from the time at which the same ought to have been paid, until the time when the same was or were actually paid; or to the period of the payment of the first dividend from which such interest may be deducted and reserved by the Company.

XII. And be it enacted, That notwithstanding any thing in the said Act hereby amended contained, it shall and may be lawful for the Directors of the said Company to declare all Shares of Stock on which any instalments and penalties may be or remain unpaid during the period mentioned in the eleventh Section of the Act hereby amended, forfeited to the said Company, and it shall not be necessary to have such Shares declared forfeited at any special meeting of the Shareholders of the said Company, it being hereby provided and declared that a resolution of the Directors shall cause the said Shares to be as absolutely forfeited as if a resolution of the Shareholders were passed in the manner required by the said Act, and such Shares shall or may be sold as provided by the said Act, but the proceeds of such sales shall not be paid over except after deduction as well of the costs and forfeitures mentioned in the said Act, as of all calls due in respect of such Shares and interest thereon from the times at which such calls were respectively made payable, which calls and interest the said Company is hereby authorized first to deduct and retain and all other provisions with respect to the effect of such forfeitures shall remain in as full force, virtue and effect, as if this Act had not been passed.

XIII. And be it enacted, That it shall be lawful for the Manager, Secretary or Clerk of the said Company, in all proceedings against the estate of any debtor, bankrupt or insolvent against whom the said Company may have claims, to represent the said Company,

Company, to appear, act, prove and vote in their behalf in all respects, as if such claim or demand were the demand of such Manager, Secretary or Clerk of the said Company.

XIV. And be it enacted, That neither the service nor connecting pipes of the said Company, nor any meters, lustres, lamps, pipes, gas-fittings or other property of any description whatsoever of the said Company shall be subject or liable for rent nor liable to be seized or attached in any way by the possessor or owner of the premises wherein the same may be, nor be in any way whatsoever liable to any person for the debts of any person or persons to and for whose use or the use of whose house or building the same may be supplied by the Company, notwithstanding the actual or apparent possession thereof by such person or persons; any law usages or custom to the contrary notwithstanding.

Pipes and fittings of the Company not liable to seizure in certain cases.

XV. And be it enacted, That the said Company shall have power and authority, and it shall be lawful for the said Company to sell and dispose of gas-meters, gas-pipes, and gas-fittings of every description, for the use of private or public houses, or for any establishment, company or corporation whatever, as well as coke, coal, and all and every the product and products of their work, refuse or residuum arising, or to be obtained from the materials used in or necessary for the manufacture of Gas, as well as to sell and dispose of any surplus lands or buildings belonging to the Company but not needed by the Company for the extension of the works, in such manner as the said Company may think proper, and that the said Company shall also have power and authority to let out at hire gas-meters and gas-fittings of every kind and description, at such rates and rents as may be agreed upon between the consumer or tenant and the said Company.

Company to have power to sell gas-meters, surplus materials, &c.

XVI. And be it enacted, That if any person shall wilfully damage, or cause or knowingly suffer to be damaged any meter, lamp, lustre, service pipes, or fittings belonging to the said Company, or shall wilfully alter or impair, or knowingly suffer the same to be altered or impaired, so that the meter or meters shall indicate less Gas than actually passes through the same, every such person or persons shall incur a penalty to the use of the said Company, for every such offence, of a sum not less than one pound, nor exceeding five pounds, and shall also pay and defray all charges necessary for the repairing or replacing the said meter, pipes or fittings, and double the value of the surplus Gas so consumed, such penalties, damage and charges to be recovered with costs in the manner hereinafter provided.

Penalty for wilful damage to meters, &c.

XVII. And be it enacted, That if any person shall wilfully extinguish any of the public lamps or lights, he shall forfeit and pay to the use of the said Company, for every such offence, a penalty not less than one pound nor more than five pounds, and shall also be liable to make good all damages and charges to be recovered with costs in the manner hereinafter provided.

Penalty for extinguishing lamps, &c.

XVIII. And be it enacted, That if any person shall carelessly or accidentally break down or damage any meter, pipe, pedestal or lamp, supplied by or belonging to the Company or any persons, or keep the light or lights burning for a longer time than he shall contract to pay for, and shall not on demand make satisfaction to the Company, or to such person for the damage done, or for the excess of Gas obtained and used,

As to carelessness or accidental breakage or damage.

such

such damage, loss or value may be recovered by the Company, with costs, in the manner hereinafter provided.

Penalty for connecting pipes with the Company's main without permission.

XIX. And be enacted, That if any person or persons, whether principal or workman or party employing such, shall join or connect any pipe to the main or service pipes of the said Company, or shall in any way lay, join or connect any pipe for the supply of any new light or burner, to any pipe, whatsoever, containing gas, without having first received the consent of the Company or their Agent in writing, then such person or persons or party employing such, shall for every offence forfeit and pay to the said Company the sum of twenty-five pounds currency, and also a further sum of one pound for each day such pipe shall so remain, or be imprisoned for the term of one calendar month in the Common Gaol.

Provision for the recovery of moneys due to the Company for Gas rent.

Company may cut off Gas.

Power to enter premises, &c.

Penalty for obstructing the Company in the exercise of the said right.

Recovery of penalties imposed by this Act.

XX. And be it enacted, That if any person or persons, company or companies, or body corporate supplied with Gas by the Company, shall neglect to pay any rate, rent or charge due to the said New City Gas Company, at any of the times fixed for the payment thereof, it shall be lawful for the Company or any person acting under their authority, on giving twenty-four hours previous notice, to stop the Gas from entering the premises, service pipes or lamps of any such person, company or body, by cutting off the service pipe or pipes, or by such other means as the said Company shall see fit, and to recover the said rent or charge due up to such time, together with the expenses of cutting off the Gas, in any competent Court, notwithstanding any contract to furnish for a longer time, and in all cases where it shall be lawful for the said Company to cut off and take away the supply of Gas from any house, building or premises, under the provisions of this Act, it shall be lawful for the Company, their agents and workmen, upon giving twenty-four hours previous notice to the occupier or person in charge, to enter into any such house, building or premises, between the hours of nine o'clock in the forenoon and four in the afternoon, making as little disturbance and inconvenience as possible, and to remove, take and carry away, any pipe, meter, cock, branch, lamp, fittings or apparatus, the property of and belonging to the said Company; and it shall also be lawful for any servant of the said Company duly authorized, to enter any house into which Gas may have been or be taken, between the hours aforesaid, for the purpose of repairing and making good, any such house, building or premises, or for the purpose of examining any meter, pipe or apparatus belonging to the said Company or used for supplying their Gas; and if any person or persons refuse to permit or do not permit the servants and officers of the said Company to enter and perform the acts aforesaid, every such person so refusing or obstructing shall incur a penalty to the said Company, for every such offence, of ten pounds currency, and a further penalty of one pound for every day during which such neglect, refusal or obstruction shall continue, to be recovered with costs as hereinafter provided.

XXI. And be it enacted, That all fines, penalties and forfeitures imposed by this Act or by the Act hereby amended may notwithstanding any special provision with respect to any such fines, penalties or forfeitures, in the Act hereby amended, be sued for and recovered with costs by the said Company to and for their own use, or by any person whose property may be injured, to and for the use of such person or persons either in the manner directed in the said Act, or before any one or more Justices of the Peace for the District of Montreal, on the oath of any one credible witness, although such witness be a servant in the employ of the said Company, and in all actions authorized

authorized by this Act or by the Act hereby amended to be instituted or contemplated therein, the evidence of one credible witness shall be received as sufficient, notwithstanding such witness may be in the employ of the said Company, and all such actions shall be brought in Courts having jurisdiction over the amount involved in such suit unless otherwise specially provided and authorized by this or the said Act, and where damage as well as a penalty may be given, such damage and penalty may be sued for separately; and such fines, penalties and damage may be levied by distress from the goods of the defendant, and in case the defendant may have no goods to satisfy the same, then he shall be committed to the Common Gaol for such period not exceeding two months, as the Justice or Court may direct.

Who may be witnesses.

Fines, &c. how levied.

Interpretation clause.

XXII. And be it enacted, That the word "Lands" in this Act and the said amended Act, shall include all lands, tenements, and hereditaments, and real and immoveable property whatsoever, and the word "Company" in the said Acts shall mean the Corporation erected in the said Act hereby amended, and in this Act spoken of unless otherwise expressly indicated by the context, and all words importing the singular number or the masculine gender only, shall extend to more than one person, party or thing, and to females as well as males, and the words "Shareholder" or "Stockholders," shall include the heirs, executors, administrators, curators, legatees or assigns of such Shareholders, or any other party having the legal possession of any share whether in his own name or that of any other, unless the context shall be inconsistent with such construction; and whenever power is by this Act given to do any thing, power shall be intended also to do all things which may be necessary to the doing of such things, and all acts which the Directors or Stockholders are authorized to perform and do, shall or may be validly performed and done by a majority of the Directors or a majority of the *quorum* of the Directors or of the Stockholders respectively as the case may be, unless where otherwise expressly provided, and generally all words and clauses herein shall receive such liberal and fair construction as will best insure the carrying into effect of this Act according to its true intent and spirit.

Public Act:

XXIII. And be it enacted, That this Act shall be deemed a Public Act, and as such judicially noticed by all Judges, Justices and others whom it may concern, without being specially pleaded.

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Law Printer to the Queen's Most Excellent Majesty.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CLXXXIV.

An Act to extend the time limited for an increase of the Capital Stock of the Bank of Montreal.

[25th April, 1849.]

WHEREAS the Corporation of the Bank of Montreal have prayed for an extension of the time limited for an increase of their Capital Stock, and it is expedient to grant their prayer : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the respective periods of "eighteen months," and "three years," specified in the proviso contained in the first section of an Act of Parliament of this Province, passed in the tenth and eleventh years of Her Majesty's Reign, and intituled, *An Act to enable the Bank of Montreal to increase their capital Stock*, shall be, and are hereby extended, respectively, to eighteen months, and three years, from and after the passing of this Act.

Preamble.

Period for increasing Stock extended.

10 & 11 Vict: c. 115.

II. And be it enacted, That this Act shall be held to be a Public Act.

Public Act.

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Law Printer to the Queen's Most Excellent Majesty.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CLXXXV.

An Act to amend the Act incorporating the City Bank, and to provide for a reduction of its Capital Stock.

[30th May, 1849.]

WHEREAS the President and Directors of the City Bank have by their Petition prayed that the value of each share in the Capital Stock of the said Bank be reduced from twenty-five pounds currency to eighteen pounds fifteen shillings currency, each, in consequence of losses sustained by the said Bank, which losses have reduced the value of the shares to that extent ; and have also prayed that the term within which the additional shares of Stock authorized to be created in and by the Act passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, and intituled, *An Act to enable the City Bank to increase its Capital Stock*, are thereby required to be subscribed for and paid, should be extended and enlarged : And whereas it is expedient to grant the prayer of their said Petition subject to the limitations hereinafter made: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That for and notwithstanding any thing contained in the Act passed in the Session held in the fourth and fifth years of Her Majesty's Reign, and intituled, *An Act to extend the Charter of the City Bank and to increase the Capital Stock thereof*, each and every share in the Capital Stock of the said Bank, as well that created by the said last mentioned Act, as that authorized to be raised by the said Act passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, shall, from and after the passing of this Act, be held to represent and be equal to eighteen pounds fifteen shillings currency each, and not twenty-five pounds currency each as heretofore ; and that the whole amount of the Stock of the said Bank including that authorized to be raised in and by the said last mentioned Act, and including also all the present estate and property thereof, shall be held to be three hundred and seventy-five thousand pounds currency, and not five hundred thousand pounds currency as heretofore.

Preamble.

10 & 11 Vict.
c. 116.

Shares in the
Bank reduced
to £18 15s.
each, and the
whole Stock to
£375,000.
4 & 5 Vict.
c. 97.

II. And be it enacted, That the terms in and by the second section of the said Act passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, and intituled, *An Act to enable the City Bank to increase its Capital Stock*, limited for

Periods for
subscribing for
and paying up
new Stock un-

subscribing

der 10 & 11
Vict. c. 116,
extended.

Proviso :
enactments of
former Acts to
apply.

subscribing for and wholly paying up the shares thereby authorized to be raised, shall be and the same are hereby extended as follows, that is to say : for subscribing for the said additional shares until eighteen months after the passing of this Act, and for wholly paying up the said shares until three years after the same time ; Provided always, that all and every the other provisions and conditions contained in the said last mentioned Act, and also in the said Act passed in the Session held in the fourth and fifth years of Her Majesty's Reign, intituled, *An Act to extend the Charter of the City Bank and to increase the Capital Stock thereof*, with respect to the subscription for, and paying up of the Stock therein mentioned, shall be and the same are hereby expressly extended and made applicable to the additional shares authorized to be raised by the Act in this section firstly mentioned.

All the present
Directors to
retire at the
next election.

Number of
Directors
reduced.

Proviso.

Proviso.

III. And be it enacted, That notwithstanding any thing in any of the Acts hereinbefore recited contained, the whole of the present Directors of the said Bank shall retire at the first annual general meeting of the Shareholders of the said Bank, to be held after the passing of this Act, and that upon and after the said last mentioned day, the number of Directors for the management of the affairs of the said Bank, to be elected annually, shall be five instead of eleven as heretofore, and one of the five shall be President ; Provided always, that the present Directors be eligible for re-election ; and provided further that no person shall be capable of being elected one of the five Directors unless he shall, in addition to all the other qualifications required by the Act last above mentioned, be holder and proprietor in his own name of not less than forty shares of the Capital Stock of the said Corporation wholly paid up.

Quorum of
Directors
altered.

Powers of a
quorum, &c.

IV. And be it enacted, That notwithstanding any thing in the said Acts hereinbefore recited contained, the number of Directors necessary to constitute and form a *quorum* for the transaction of business shall be three instead of five ; and all and every the powers by the said Acts conferred on the number of Directors therein named, shall and may be lawfully exercised by the number of Directors by this Act named or by a *quorum* thereof : and all and every the provisions in the said Acts contained with respect to choosing a President or Vice-President by the Directors from among themselves, and with respect to voting and making By-laws and all other provisions and powers generally applicable to and conferred on the Directors, shall be held to be and be applicable to and conferred on the Directors by this Act directed to be chosen.

Non-election
not to dissolve
the Corpora-
tion.

V. And be it enacted, That if at any time it shall happen that an election of Directors shall not be made or take effect on the day fixed by this Act, the said Corporation shall not be deemed or taken to be thereby dissolved, but it shall be lawful at any subsequent time to make such election at a general meeting of the Shareholders to be duly called for that purpose.

Public Act.

VI. And be it enacted, That this Act shall be deemed and taken to be a Public Act, and as such shall be judicially taken notice of without being specially pleaded.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CLXXXVI.

An Act to authorize Marc Antoine Primeau and Antoine A. Trottier to erect a Toll-Bridge over the River Chateauguay in the Parish of Sainte Martine, and to make a Plank Road from the River Saint Lawrence to the River Chateauguay in the said Parish, and to fix the Tolls to be taken upon the said Bridge and Road, and to make further provisions in that behalf.

[30th May, 1849.]

WHEREAS the erection of a Bridge over the River Chateauguay, in the Parish of Sainte Martine, in the County of Beauharnois, at some point between the Village called Primeauville and the Village of Sainte Martine (both inclusive) and the construction of a plank or macadamized or otherwise improved Road, from some point on the River Saint Lawrence at or near the Village of Beauharnois, to the main front Road on the north-west side of the said River Chateauguay, in the Parish aforesaid, and ending somewhere near the places aforesaid, would greatly promote the welfare of the inhabitants of that portion of the said County and their facilities of communication; and whereas Marc Antoine Primeau and Antoine A. Trottier, both of the said Parish of Sainte Martine, Esquires, have by their Petition in that behalf prayed for leave to build such Toll-bridge and to construct such Road as aforesaid: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the the same, That it shall be lawful for the said Marc Antoine Primeau and Antoine A. Trottier, and they are hereby authorized and empowered at their own costs and charges, to erect and build a good and substantial Toll-bridge over the said River Chateauguay, at some convenient point or place situate in the intermediate space between the Village called Primeauville and the Village of Sainte Martine, both inclusive, and to erect and build a Toll-house and Turnpike, with other dependencies on or near the said Bridge, and also to do, perform, and execute all other matters and things requisite and necessary, useful or convenient, for erecting and building, maintaining and supporting the said intended Bridge, Toll-house, Turnpike, and other dependencies, according to the tenor and true meaning of this Act.

Preamble.

M. A. Primeau, &c. authorized to build a Toll-bridge over the River Chateauguay, within certain limits.

M. A. Primeau, &c. authorized to use the land on either side of the River, &c. making reasonable satisfaction to the respective owners and occupiers of the lands for the damages done to the same.

Proviso.

II. And be it enacted, That for the purpose of erecting, building, maintaining and supporting the said Bridge, the said Marc Antoine Primeau and Antoine A. Trottier, their heirs, executors, curators and assigns, shall from time to time, have full power and authority to take and use the land on either side of the said river, and there to work up or cause to be worked up the materials and other things necessary for erecting, constructing or repairing the said Bridge accordingly ; the said Marc Antoine Primeau and Antoine A. Trottier, their heirs, executors, curators and assigns, and the persons by them employed, doing as little damage as may be, and making reasonable and just satisfaction to the respective owners and occupiers of all such lands and grounds as shall be altered, damaged or made use of, for the value of such land, as well as for that of the alteration or of the damages which they may cause to the proprietors, by means of or for the purpose of erecting the said Bridge and the said Toll-house, as above designated ; and in case of difference of opinion and dispute about the *quantum* of such satisfaction, the same shall be settled by arbitrators or experts to be named by the parties respectively, and in default of such nomination by them or either of them, then by the Court of Queen's Bench for the District of Montreal, in manner and form prescribed by law, and the said Court is hereby authorized and empowered to hear, settle and finally determine the amount of such compensation in consequence : Provided always, that the said Marc Antoine Primeau and Antoine A. Trottier, their heirs, executors, curators and assigns, shall not commence the erection of the said Bridge and other works by which any person may be deprived of his land or part thereof, or may suffer damage, before the price or value of the said land and damages, estimated and settled in manner before prescribed, shall have been paid to such person, or such price or value shall have been offered to him, and that on his refusal thereof the said Marc Antoine Primeau and Antoine A. Trottier shall have deposited it at the office of the Prothonotary of the Court of Queen's Bench for the said District of Montreal.

Bridge, &c. vested in M. A. Primeau, &c. for fifty years.

After fifty years the Bridge, &c. to be vested in the Crown on certain conditions.

Proviso : the Crown may assume the same sooner on certain conditions.

III. And be it enacted, That the said Bridge and the said Toll-house, Turnpike and dependencies to be erected thereon, or near thereto, and also the ascents or approaches to the said Bridge, and all materials which shall be, from time to time, found or provided, for erecting, building or maintaining and repairing the same, shall be vested in the said Marc Antoine Primeau and Antoine A. Trottier, their heirs and assigns, for the term of fifty years from the passing of this Act ; and at the end of the said term of fifty years the said Bridge, Toll-house, Turnpike and dependencies and the ascents and approaches thereto, shall be vested in Her Majesty, Her Heirs and Successors, and be free for public use, and it shall then be lawful for the said Marc Antoine Primeau and Antoine A. Trottier, their heirs, executors, curators and assigns, to claim and obtain from Her Majesty, Her Heirs and Successors, the full and entire value which the same shall at the end of the said fifty years bear and be worth, exclusive of the value of any Toll or privilege, the said value to be ascertained by three Arbitrators one of whom to be named by the Governor of the Province for the time being, another by the said Marc Antoine Primeau and Antoine A. Trottier, their heirs, executors, curators or assigns, and the third by the said two Arbitrators : Provided that at any time before the expiration of the said term of fifty years it shall and may be lawful for Her Majesty, Her Heirs and Successors, to assume the possession and property of the said Bridge and the dependencies thereof, on paying to the said Marc Antoine Primeau and Antoine A. Trottier, their heirs, executors, curators or assigns, the full and entire value which the rights and privileges hereby granted to them may be worth for that portion of the said term of fifty years then remaining unexpired, such value to be

be ascertained in case of difference of opinion, in the manner provided by law with respect to property taken by the Commissioners of Public Works for the public service, the said payment not to be less than the value at the time of the Bridge and dependencies exclusive of the Toll and privilege : Provided always, that nothing herein contained shall be construed to prevent any number of inhabitants interested in the said Bridge from assuming at any time the possession and property of the said Bridge, Toll-house, Turnpike and dependencies, and the ascents and approaches thereto, upon paying to the said Marc Antoine Primeau and Antoine A. Trottier, their heirs, executors, and assigns, the full and intrinsic value which the same shall at the time of such assumption bear and be worth, with an addition of twenty-five per cent upon such intrinsic value, and that after such assumption of the said Bridge it shall become a free Bridge.

Proviso : the Inhabitants interested may assume the same sooner on certain conditions.

IV. And be it enacted, That in erecting the said Bridge there shall be left one opening between the pillars thereof, of at least sixty feet in width in the middle of the said river and at the deepest part of the river, so that rafts and other timber floating down may meet with no obstruction ; that the arches of the said Bridge shall be raised at least six feet above the level of the said river when the waters thereof are at the highest level of ordinary seasons : and that in addition to the opening above mentioned there shall be another on each side thereof, of at least fifty feet between the pillars which shall be three in number, and which as well as the wharves or abutments serving to support the said arches, shall be of framed work sheeted with oak plank.

Width of openings between the piers.

Height above water, &c.

V And be it enacted, That when and so soon as the said Bridge shall be erected and built, and made fit and proper for the passage of travellers cattle and carriages, and that the same shall have been certified by any two or more Justices of the Peace for the District of Montreal after the examination thereof, by three *Experts* to be appointed and sworn by the said Justices, and shall have been advertised in one of the public newspapers published in Montreal in both languages, it shall be lawful for the said Marc Antoine Primeau and Antoine A. Trottier, their heirs, executors, curators and assigns, from time to time, and at all times, to ask, demand, receive, recover and take, to and for their own proper use, benefit and behoof for Pontage, as or in the name of a Toll or Duty, before any passage over the said Bridge shall be permitted, the several sums following, that is to say :

M. A. Primeau, &c. entitled to certain Tolls for Pontage.

For each coach or other four wheeled carriage, drawn by one horse or other beast of draught, and the driver, four pence currency ;

The Tolls.

For each two wheeled carriage, and each winter carriage, drawn by one horse or other beast of draught, and the driver, three pence currency ;

For each additional horse to any of the carriages above mentioned, one penny currency ;

For each person on horseback, two pence currency ;

For each person on foot, one penny currency ;

For each horse, mare, mule or other beast of draught, bull, ox, cow or other horned catle, of what kind soever, one penny currency ;

For each hog, goat, sheep, calf or lamb, one half-penny currency.

VI.

Exemption in certain cases.

VI. Provided always, and be it enacted, That no person, horse or carriage, employed in conveying a mail or letters under the authority of Her Majesty's Post Office, nor the horses or carriages, laden or unladen, and drivers, attending officers and soldiers of Her Majesty's Forces or of the Militia, whilst upon their march, or on duty, nor the said officers or soldiers, nor any of them, nor carriages and drivers or guards, sent with prisoners of any description, as well going as coming, provided they are not otherwise loaded, nor any persons, vehicles, horses or other animals going to or returning from divine service or funerals, provided they belong to the parish of Sainte Martine, shall be chargeable with any Toll or Rate whatsoever: Provided also, that it shall and may be lawful for the said Marc Antoine Primeau and Antoine A. Trottier, their heirs, executors, curators or assigns, to diminish the said Tolls, or any of them, and afterwards if he or they shall see fit, again to augment the same, or any of them, so as not to exceed in any case the rates hereinbefore authorized to be taken: Provided also, that the said Marc Antoine Primeau and Antoine A. Trottier, their heirs, executors, curators or assigns, shall affix or cause to be affixed, in some conspicuous place at or near such Toll-gate, a Table of the Rates payable for passing over the said Bridge; and so often as such rates may be diminished or augmented, they shall cause such alteration to be affixed in manner aforesaid.

M. A. Primeau, &c. may reduce and afterwards advance the Tolls.

Table of rates to be fixed in a conspicuous place at the Toll-gate.

Tolls vested in M. A. Primeau, &c. for fifty years.

VII. And be it enacted, That the said Tolls shall be and the same are hereby vested in the said Marc Antoine Primeau and Antoine A. Trottier, their heirs and assigns for the said term of fifty years from the passing of this Act, and no longer, and subject during the said Term to be taken possession of by Her Majesty, Her Heirs and Successors in the manner hereinbefore provided.

Penalty on persons forcibly passing the Turnpike without paying Toll, &c.

VIII. And be it enacted, That if any person shall forcibly pass through the said Turnpike, without paying the said Toll or any part thereof, or shall interrupt or disturb the said Marc Antoine Primeau and Antoine A. Trottier, their heirs, executors, curators or assigns, or any person or persons employed by him, or them, for building or repairing the said Bridge, or making or repairing the way over the same, or any road or avenue leading thereto, or shall at any time drive faster than a walk on the said Bridge, every person so offending, in each of the cases aforesaid, shall, for every such offence, forfeit a sum not exceeding forty shillings currency.

No other Bridge to be erected within certain limits.

IX. And be it enacted, That as soon as the said Bridge shall be passable and opened for the use of the public, no person or persons shall erect or cause to be erected any Bridge or Bridges, or works, or use any ferry for the carriage of any persons, cattle or carriage whatsoever, for hire, across the said River Chateauguay, within the distance of one league above or one league below the said Bridge; and if any person or persons shall erect a Toll-bridge or Toll-bridges over the said River, within the said limits, he or they shall pay to the said Marc Antoine Primeau and Antoine A. Trottier, their heirs, executors, curators and assigns, treble the Tolls hereby imposed, for the persons, cattle and carriages which shall pass over such Bridge or Bridges; and if any person or persons shall at any time, for hire or gain, pass or convey any person or persons, cattle or carriages across the said river, within the limits aforesaid, such offender or offenders, shall, for each carriage or person or animal so carried across, forfeit and pay a sum not exceeding forty shillings currency; Provided that nothing in this Act contained shall be construed to prevent the public from passing any of the fords in the said River, within the limits aforesaid, or in canoes or other water carriage, without

Penalty.

Proviso as to fords.

without gain or hire; And provided that the said Marc Antoine Primeau and Antoine A. Trottier, shall be bound so soon as the said Bridge shall be open for the use of the public to indemnify any person or persons for any horse-boat now in use and which may at that time be still in use, and also for any scow then in use for the purposes of a ferry within the limits of the said privilege; which indemnity shall be fixed by three Arbitrators, one of whom shall be named by each of the parties severally, and the third by the said Arbitrators: Provided also, that it shall be lawful for any Rail-road Company incorporated by law to erect or cause to be erected within the said limits a Bridge for the purposes of the said Rail-road and to convey over the same all persons, vehicles, cattle, goods, wares and merchandize transported along the line of the said Rail-road, but on no other account and in no other way whatsoever; And provided also, that the space of one acre on each side of the river opposite the church of Sainte Martine shall be excepted out of the exclusive privilege granted as aforesaid, in order that a free bridge may be erected opposite the said church by the Municipal Council or by private individuals.

Proviso:
M. A. Primeau, &c. to indemnify proprietors of horse-boats, &c.

Proviso as to any Bridge for the sole use of a Rail-road.

Proviso: exception of a certain space from the privilege.

X. And be it enacted, That if any person shall maliciously pull down, burn or destroy the said Bridge, or any part thereof, or the Toll-house to be erected by virtue of this Act, every person so offending, and thereof legally convicted, shall be deemed guilty of felony.

Penalty on persons pulling down the Bridge or Toll-house.

XI. And be it enacted, That the said Marc Antoine Primeau and Antoine A. Trottier, to entitle themselves to the benefits and advantages to them by this Act granted, shall, and they are hereby required to erect and complete the said Bridge, Toll-house, Turnpike and dependencies, within two years from the day of the passing of this Act; and if the same shall not be completed within the term last mentioned, so as to afford a convenient and safe passage over the said Bridge, they the said Marc Antoine Primeau and Antoine A. Trottier, their heirs, executors, curators and assigns, shall cease to have any right, title or claim of, in or to the Tolls hereby imposed, which shall from thenceforward belong to Her Majesty; and the said Marc Antoine Primeau and Antoine A. Trottier shall not, by the said Tolls, or in any other manner or way, be entitled to any reimbursement of the expense they may have incurred in and about the building of the said Bridge; and in case the said Bridge after it shall have been erected and completed, shall at any time become impassable or unsafe for travellers, cattle or carriages, the said Marc Antoine Primeau and Antoine A. Trottier, their heirs, executors, curators or assigns, shall and they are hereby required, within two years from the time at which the said Bridge shall, by Her Majesty's Court of General Quarter Sessions of the Peace, in and for the said District of Montreal, be ascertained to be impassable or unsafe, and notice thereof to them or any of them by the said Court given, to cause the same to be rebuilt or repaired, and made safe and commodious for the passage of travellers, cattle and carriages: and if within the time last mentioned, the said Bridge be not repaired or built, as the case may require, then the said Bridge, or such part thereof as shall be remaining, shall be and be taken and considered to be the property of Her Majesty, and after such default to repair or rebuild the said Bridge, the said Marc Antoine Primeau and Antoine A. Trottier, their heirs, executors, curators or assigns, shall cease to have any right, title or claim of, in, or to the said Bridge, or the remaining parts thereof, and the Tolls hereby granted, and their and each and every of their rights in the premises, shall be wholly and for ever determined: Provided, that during any period in which the said Bridge shall be impassable and unsafe

M. A. Primeau, &c. to erect the Bridge within two years.

Penalty if not completed.

Provision in case the Bridge should at any time become impassable, &c.

Proviso.

it

it shall be competent to any person or persons to establish any ferry within the said limits, in like manner as they might have done had this Act not been passed.

M. A. Primeau, &c. may make a plank or macadamized Road within certain limits.

XII. And be it enacted, That the said Marc Antoine Primeau and Antoine A. Trottier, their heirs, executors, curators and assigns, shall by virtue of this Act, have full power to lay out, construct, make and complete a Plank or Macadamized Road at their own proper cost and charges over and through the tract of country extending from the River St. Lawrence, at or near to the Village of St. Clément de Beauharnois, to the main front road, on the north-west side of the River Chateauguay, in the Parish of Sainte Martine, and ending in the neighbourhood of the Village called Primeauville or the Village of Sainte Martine, the said Road to be constructed elsewhere than upon any public highway, except only for the purpose of crossing it; Provided always, that the said Road shall be commenced within two years and completed within four years from the passing of this Act.

Proviso.

M. A. Primeau, &c. may agree with proprietors of lands taken or damaged.

XIII. And be it enacted, That the said Marc Antoine Primeau and Antoine A. Trottier, their heirs and legal representatives, are hereby empowered to contract, compound, compromise and agree with the owners and occupiers of any lands upon which they may determine to construct the said Plank or Macadamized Road, either by purchase of so much of the said land and privileges as they shall require for the purposes of the said Marc Antoine Primeau and Antoine A. Trottier, their heirs and legal representatives, or for the damages which he, she or they shall and may be entitled to receive of the said Marc Antoine Primeau and Antoine A. Trottier, their heirs and legal representatives, in consequence of the said intended road being made and constructed in and upon his, her, or their respective lands; and in case of any disagreement between the said Marc Antoine Primeau and Antoine A. Trottier, their heirs and legal representatives, and the owner or owners, occupier or occupiers as aforesaid, it shall and may be lawful, from time to time, for each owner and occupier disagreeing with the said Marc Antoine Primeau and Antoine A. Trottier, their heirs and legal representatives, either upon the value of the lands and tenements or private privileges proposed to be purchased, or upon the amount of damages to be paid to them as aforesaid, to nominate and appoint one or more indifferent person or persons, and for the said Marc Antoine Primeau and Antoine A. Trottier, their heirs and legal representatives, to nominate an equal number of indifferent persons, who, together with one other person to be elected by ballot by the persons so named, shall be Arbitrators, to award, determine, and adjudge, and order the respective sums of money which the said Marc Antoine Primeau and Antoine A. Trottier, their heirs or legal representatives, shall pay to the respective persons entitled to receive the same.

Arbitration in case of disagreement.

Arbitrators may be appointed for the party in his default.

XIV. And be it enacted, That if after eight days notice in writing, given to the party so disagreeing as to the value aforesaid, such party shall not nominate or appoint an Arbitrator or Arbitrators as aforesaid on his part, then and in such case, any Circuit Judge for the District of Montreal, shall and may nominate and appoint one or more Arbitrator or Arbitrators on his or their behalf, with the same powers and authority as if appointed by the party or parties so refusing or neglecting to appoint an Arbitrator or Arbitrators in his or their behalf, and to meet and ballot for the additional Arbitrator or Umpire.

XV. And be it enacted, That the Arbitrators so appointed shall fix a convenient day for hearing the respective parties, and shall give eight days notice at least of the day and place, and having heard the parties, or otherwise examined into the merits of the matters so brought before them, the said Arbitrators, or a majority of them, shall make their award thereupon in writing, which award shall be final as to the value so in dispute as aforesaid.

Meetings of Arbitrators.

Award.

XVI. And be it enacted, That if the party so disagreeing shall refuse to accept the value of land or damage so awarded by the Arbitrators as aforesaid, till the end of the second Term of Her Majesty's Court of Queen's Bench for the District of Montreal, next after the making of the award and tender of the value thereby ascertained, then and in such case the said Marc Antoine Primeau and Antoine A. Trottier, their heirs and legal representatives, shall be at liberty and shall have full power to occupy the piece of land so valued by the said Arbitrators, in the same manner as other portions of the said Road.

M. A. Primeau, &c. may take possession in certain cases.

XVII. And be it enacted, That in any action, real or personal, or mixed, for and on account of such occupation, by the said Marc Antoine Primeau and Antoine A. Trottier, their heirs and legal representatives, their agents or servants, or other person or persons using the said Road, the said award shall and may be pleaded in bar of any such action, at any time after the said two Terms in the said Court of Queen's Bench, notwithstanding any defect in form or substance in the said award; Provided always, that it shall and may be lawful to and for the party or parties interested in the land mentioned in the award, or their agent by Counsel, at any time within the two terms as aforesaid, after the same hath been made and the amount of the value awarded tendered, to move the said Court of Queen's Bench to set aside such award for corruption or any other matter or thing for which awards are now subject to be impugned by law: Provided also, that if the first award be so set aside by the Court of Queen's Bench, the matter in difference may again be submitted to other Arbitrators, and so on till a satisfactory award be made between the parties.

Award may be pleaded in bar of certain actions.

Proviso: award may be set aside by Court of Q. B.

Further proviso.

XVIII. And be it enacted, That the said Marc Antoine Primeau and Antoine A. Trottier, their heirs and legal representatives, shall have full power and authority to explore the country lying between the River St. Lawrence and the River Chateauguay, in the Parishes of St. Clément and Ste. Martine, and to set out and ascertain, and, subject to the limitations prescribed by this Act, to take, occupy, hold and possess the requisite lands along the line and within the limits of the said Plank or Macadamized Road of which the construction is hereby authorized; and for the purpose aforesaid the said Marc Antoine Primeau and Antoine A. Trottier, their heirs and legal representatives, and their agents, servants and workmen, are hereby authorized and empowered to enter into and upon the lands and grounds of or belonging to the Queen's Majesty, Her Heirs or Successors, or to any other person or persons, bodies politic or corporate, and to survey and take levels of the same or any part thereof, and to set out and ascertain such parts thereof as they shall deem necessary and proper for making the said Road, and all such matters and conveniences as they shall think proper and necessary for the making, effecting, preserving, completing and using of the said intended Road; and also to make, build, erect and set up, in and upon the said route of the Road aforesaid, or upon the land adjoining or near the same, all such works, ways, roads and conveniences as the said Company shall think convenient and necessary for

M. A. Primeau, &c. empowered to survey and set out the Road.

Certain powers granted therein for that purpose.

Conveniences for making and using the said Road.

the

Laying and working materials.

the purposes of the said Road, and also from time to time to alter, repair, amend, widen or enlarge the same or any other of the conveniences above mentioned, as well for carrying or conveying goods, commodities, timber and other things, to and from the said Road, as for the carrying and conveying all manner of materials necessary for making, erecting, finishing, altering, repairing, amending, widening or enlarging the works of or belonging to the said Road, and also to place, lay, work and manufacture the said materials on the ground near to the place or places where the said works or any of them are or shall be intended to be made, erected and repaired or done, and to build and construct the several works and erections belonging thereto, and also to make, maintain, repair or alter any fences or passages through the said Road, or which shall communicate therewith, and to construct, erect, and keep in repair any piers, arches, or other works, in and upon any creeks or brooks, for making, using, maintaining and repairing the said Road, and also to construct, make, and do all other matters and things which they shall think necessary and convenient for the making, effecting, preserving, improving, completing and using the said Road, in pursuance, and within the true meaning of this Act, doing as little damage as may be in the execution of the several powers to them hereby granted, and making satisfaction in manner herein mentioned, for all damages to be sustained by the owners or occupiers of such lands, tenements or hereditaments.

As little damage as possible to be done and compensation to be made.

M. A. Primeau, &c. may take certain Tolls on the Road.

XIX. And be it enacted, That it shall and may be lawful for the said Marc Antoine Primeau and Antoine Trottier, their heirs and legal representatives, when and so soon as the said Road shall be completed in a proper manner, and a certificate thereof shall have been given and published in the manner hereinbefore prescribed with regard to the Toll Bridge hereinbefore mentioned, to receive Tolls and charges from all persons passing and repassing over the said Road hereby authorized to be constructed, erected, built, made and used, or any part thereof, not exceeding the following rates: That is to say:

The Tolls.

For each coach or other four wheel carriage, drawn by one horse or other beast of draught, and the driver, eight pence currency;

For each two wheel carriage, and each winter carriage, drawn by one horse or other beast of draught, and the driver, six pence currency;

For each additional horse or other beast of draught to any of the carriages aforesaid, two pence currency;

For each person on horseback, four pence currency;

For each person on foot, one penny currency;

For each horse, mare, mule or other beast of draught, bull, cow, ox or other horned cattle, of what kind so ever, two pence currency;

For each hog, goat, sheep, calf, or lamb, one penny currency;

Proviso: exemption of Mail, &c. from Tolls.

Provided always, and be it enacted, That no person, horse or carriage, employed in conveying a mail or letters under the authority of Her Majesty's Post Office, nor the horses or carriages, laden or unladen, and drivers, attending Officers and Soldiers of Her Majesty's Forces or of the Militia, whilst upon their march, or on duty, nor the said Officers or Soldiers nor any of them, nor carriages and drivers or guards, sent with prisoners

prisoners of any description, as well going as coming, provided they are not otherwise loaded, nor any persons vehicles, horses or other animals going to or returning from divine service or funerals, provided they belong to the Parish of Sainte Martine, shall be chargeable with any Toll or Rate whatsoever; Provided also, that it shall and may be lawful for the said Marc Antoine Primeau and Antoine A. Trottier their heirs, executors, curators or assigns, to diminish the said Tolls, or any of them, and afterwards if he or they shall see fit, again to augment the same, or any of them, so as not to exceed in any case the rates hereinbefore authorized to be taken: Provided also, that the said Marc Antoine Primeau and Antoine A. Trottier, their heirs, executors, curators or assigns shall affix or cause to be affixed, in some conspicuous place at or near such Toll-gate, a Table of the Rates payable for passing over the said Bridge; and so often as such rates may be diminished or augmented, they shall cause such alteration to be affixed, in manner aforesaid; and provided, also, that a Table of the said Tolls shall be posted up at each end of the said road and at each intermediate Toll-gate, and that the said Table shall be renewed whenever any change shall be made in the said Tolls.

Proviso: Tolls may be raised and lowered, not exceeding the maximum.

Proviso: Table of Tolls to be posted up.

Proviso.

XX. And be it enacted, That the said road and all materials which shall be from time to time got or provided, for constructing, building, maintaining or repairing the same, and the said Tolls as hereinbefore mentioned, shall be and the same are hereby vested in the said Marc Antoine Primeau and Antoine A. Trottier and their heirs and legal representatives for ever.

Road, &c. vested in M. A. Primeau, &c.

XXI. And be it enacted, That the said Marc Antoine Primeau and Antoine A. Trottier and their heirs and legal representatives, shall have full power to erect such number of Toll-gates upon and across the said road, and to construct and maintain such Toll-houses and other buildings as shall to them appear necessary and convenient for the proper management of their business.

M. A. Primeau, &c. may erect Toll-gates, and other buildings.

XXII. And be it enacted, That if any person or persons shall cut, break down or destroy in any way any of the Toll-gates or Toll-houses to be erected by virtue of this Act, every such person so offending, and being lawfully convicted, shall be deemed guilty of a misdemeanor, and be punished by fine and imprisonment; and if any person or persons shall remove any earth, stone or timber on the said road, to the damage of the same, or shall forcibly pass or attempt to pass by force any of the gates, without having first paid the legal Toll at such gate, such person or persons, shall pay all damages by them committed, and shall forfeit and pay a fine not exceeding twenty pounds, nor less than five pounds, currency, to be recovered before any Justice of the Peace for the District of Montreal.

Penalty on persons injuring or destroying the works, &c.

How recovered.

XXIII. And be it enacted, That the said Marc Antoine Primeau and Antoine A. Trottier, their heirs and legal representatives may, if they think proper, commute the Tolls with any person or persons, by taking of him, her or them a certain sum, either monthly or annually, in lieu of such Tolls.

Commutation of Tolls allowed.

XXIV. And be it enacted, That if any person or persons shall, after proceeding on the said road with any carriage or animal liable to pay Toll, turn out of the said road into any other road, and shall enter the said road beyond any of the said gate or gates without paying Toll, whereby such payment shall be evaded, such person or persons shall

Penalty for fraudulently evading Tolls.

How re-
covered.

shall for every such offence forfeit and pay the sum of twenty-five shillings, which said sum shall belong to the Proprietors of the said road ; and any one Justice of the Peace for the District of Montreal, shall, on conviction of such offender before him, fine such person in the said penalty, and from his judgment there shall be no appeal.

Penalty for
assisting
others to
avoid payment.

XXV. And be it enacted, That if any person or persons occupying or possessing any enclosed lands near any Toll-house or Toll-gate which shall be erected in pursuance of this Act, shall knowingly permit or suffer any person or persons to pass through such lands, or through any gate, passage or way thereon, with any carriage, horse, mare, gelding or other animal liable to the payment of Toll, whereby such payment shall be avoided, every person or persons so offending, and also the person riding or driving the animal or animals or carriage whereon such payment is avoided, being thereof convicted, shall for every such offence, severally forfeit and pay any sum not exceeding twenty-five shillings, which shall belong to the proprietors of the said road, and may be recovered in the manner hereinbefore provided.

How recover-
ed.

M. A. Pri-
meau, &c. not
to encroach
on private
rights without
consent or
compensation.

XXVI. And be it enacted, That the said Marc Antoine Primeau and Antoine A. Trottier, their heirs and legal representatives, at any time after the passing of this Act and under and by virtue of its provisions, shall and may construct, erect and build a road as aforesaid, and also that the said road contemplated by this Act, shall not in any degree interfere with or encroach upon any fee simple, right or private easement or privilege of any individual now holding and enjoying the same or entitled thereto, without permission first had and obtained by the consent of the owner thereof, or by virtue of reference to arbitration authorized by this Act.

Profits over
ten per cent.
to form a sink-
ing fund
wherewith to
purchase the
Road for the
public.

XXVII. And be it enacted, That whenever the said Tolls shall in the annual receipts exceed in amount a sum sufficient to defray the expenses of maintaining and repairing the said road, and to afford an annual income to the said Proprietors of ten per cent. profit on the capital actually expended in the construction of the said road from the commencement of its being travelled upon as aforesaid, then and in such case the increasing surplus revenue of the said Tolls shall be charged against the said Proprietors, as so much received by them in the nature of a sinking fund, by means whereof the entire estate, use and property of the said road may be purchased to and for the use of the public, in such manner and form as is hereinafter provided, or as the Legislature of this Province may by Legislative enactment hereafter provide, and the said Proprietors shall for this purpose lay yearly before the three branches of the Legislature, during the first fifteen days of each Session thereof, a general account of the receipts and expenditure upon the said road, attested on oath by one or more of the said Proprietors, before some Justice of the Peace, and if the said Proprietors or any of them, should be accused of having sworn falsely with regard to the said statement, he or they may be tried therefor, and if found guilty shall be liable to be punished in the same manner as if he or they had been charged with and convicted of the crime of wilful and corrupt perjury.

Accounts at-
tested on
oath to be laid
before the
Legislature.

False swearing
punishable as
perjury.

Legislature
may purchase
the road on
paying the
cost and fifteen
per cent. ad-
vance.

XXVIII. And be it enacted, That the Legislature of this Province may, at any time whatever, purchase the entire estate, property and use of the said road from the said Marc Antoine Primeau and Antoine A. Trottier, their heirs or legal representatives, paying to the said Proprietors the capital so as aforesaid actually expended,, together with fifteen per cent. advance thereupon, to the credit of which payment all
revenue

revenue exceeding ten per cent. upon the *bond fide* expenditure, and over and above the expense of maintaining and repairing the said road shall be charged and taken ; And it is also hereby provided and declared, that if any deficiencies of the said ten per cent. annual profit should occur at any time, such deficiencies shall also be chargeable against the increasing revenue of the subsequent years, so that the proprietors may fairly and actually receive ten per cent. profit on their said *bond fide* expenditure for the whole time they shall enjoy the estate, rights and privileges acquired under the authority of this Act ; any thing herein contained to the contrary thereof in any wise notwithstanding.

Proviso.

XXIX. And be it enacted, That notwithstanding the privileges that may be conferred by this Act, the Legislature may at any time hereafter, in their discretion, make such additions to this Act or such alteration of any of its provisions, as they may think proper, for affording just protection to the public or to any person or persons, body politic or corporate, in respect to their estate, property or rights or any interests therein, or any advantage, privilege or convenience connected therewith, or in respect to any way or right of way, public or private, that may be affected by any of the powers given to the said Marc Antoine Primeau and Antoine A. Trottier, their heirs and legal representatives.

This Act may be amended so as to protect the public.

XXX. And be it enacted, That if any action or suit shall be brought against any person or persons for any matter or thing done in contravention of this Act, such action or suit shall be brought within six calendar months next after the fact committed, and not afterwards, and the defendant or defendants in such action or suit may plead the general issue only, and give this Act and the special matter in evidence on the trial.

Limitation of actions under this Act.

XXXI. And be it enacted, That the present Act, or any of the dispositions therein contained, shall not extend or be construed to extend to weaken, diminish or extinguish the rights and privileges of Her Majesty the Queen, Her Heirs and Successors, nor of any person or persons, body politic or corporate, in any of the things therein mentioned, (except as to the power and authority hereby given to the said Marc Antoine Primeau and Antoine A. Trottier, their heirs and legal representatives, and except as to the rights which are hereby expressly altered and extinguished,) but that Her Majesty, the Queen, Her Heirs and Successors, and all and every person or persons, body politic or corporate, their heirs and assigns, executors and administrators, shall have and exercise the same rights (with the exceptions aforesaid) as they and each of them had before the passing of this Act, to every effect and purpose whatsoever, and in as ample a manner as if this Act had never been passed.

Not to affect the rights of the Crown, or of parties not specially mentioned.

XXXII. And be it enacted, That the penalties hereby imposed, shall, upon proof of the offence, respectively, before any one or more of the Justices of the Peace for the said District of Montreal, either by the confession of the offender, or by the oath of one or more credible witness or witnesses, (which oath such Justice is hereby empowered and required to administer,) be levied by distress and sale of the goods and chattels of such offender, by Warrant signed by such Justice or Justices of the Peace, and the overplus, after such penalties and the charges of such distress and sale are deducted, shall be returned, upon demand, to the owner of such goods and chattels ; and one half of such penalties, respectively, when paid and levied, shall belong to Her Majesty, and

Penalties how recoverable.

and the other half to the person suing for the same, in every case where they are not hereinbefore given to the proprietors of the Bridge and Road aforesaid.

Money levied by this Act, and not granted to M. A. Primeau, &c. reserved and to be accounted for to Her Majesty.

XXXIII. And be it enacted, That the moneys to be levied by virtue of this Act, and not hereinbefore granted to the said Marc Antoine Primeau and Antoine A. Trottier, their heirs and legal representatives, and the several fines and penalties hereby imposed and not otherwise appropriated, shall be, and the same are hereby reserved to Her Majesty, Her Heirs and Successors, for the public uses of this Province and the support of the Government thereof, in the manner hereinbefore set forth and contained; and the due application of such moneys, fines and penalties shall be accounted for to Her Majesty, Her Heirs and Successors, through the Lords Commissioners of Her Majesty's Treasury for the time being, in such manner and form as Her Majesty, Her Heirs and Successors shall direct.

Public Act.

XXXIV. And be it enacted, That this Act shall be deemed a Public Act, and shall be judicially taken notice of as such by all Judges, Justices of the Peace, and all other persons whomsoever, without being specially pleaded.

MONTREAL : Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CLXXXVII.

An Act to authorize Alexandre Maurice Delisle, Benjamin Henri Lemoine and Jean Baptiste Debien, the younger, to build a Toll-bridge over the River Jésus, and for other purposes therein mentioned.

[30th May, 1849.]

WHEREAS the convenience and the facility of intercourse of the inhabitants of the adjacent parishes and concessions and of the public in general would be much promoted by the erection of a Toll-bridge over the River Jésus between the Parishes of Sainte Rose and Terrebonne, in the County of Terrebonne and District of Montreal, near the lands of Jean Baptiste Debien, the younger, hereinafter mentioned ; And whereas Alexandre Maurice Delisle, of the City of Montreal, Esquire, Benjamin Henri Lemoine, of the same place, also Esquire, and the said Jean Baptiste Debien, the younger, of the said Parish of Sainte Rose, in the District of Montreal, farmer, have, by their petition in this behalf, prayed for leave to build a Toll-bridge over the said river at the aforesaid place : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall be lawful for the said Alexandre Maurice Delisle, Benjamin Henri Lemoine and Jean Baptiste Debien, and they are hereby authorized and empowered at their own costs and charges, to erect and build a good and substantial Toll-bridge over the said River Jésus, between the Parish of Sainte Rose and the Parish of Terrebonne, at some convenient point or place situate at or near the lands of the said Jean Baptiste Debien, in the Parish of Ste. Rose, and to erect and build one Toll-house and Turnpike, with other dependencies on or near the said Bridge, and also to do, perform, and execute all other matters and things requisite and necessary, useful or convenient for erecting and building, maintaining and supporting the said intended Bridge, Toll-house, Turnpike and other dependencies, according to the tenor and true meaning of this Act.

Preamble.

A. M. Delisle and others authorized to build a Toll-bridge over the River Jésus, within certain limits:

II. And be it enacted, That for the purpose of erecting, building, maintaining and supporting the said Bridge, the said Alexandre Maurice Delisle, Benjamin Henri Lemoine, and Jean Baptiste Debien, their heirs, executors, curators and assigns, shall from time to time, have full power and authority to take and use the land on either side

A. M. Delisle, &c. may use the land on either side of the River, on certain conditions.

side of the said river, and there to work up or caused to be worked up the materials and other things necessary for erecting, constructing or repairing the said Bridge accordingly, and also to take possession for their use and as their property of certain pieces of ground on each side of the said River Jésus, at the place where they shall erect and build the said Bridge, to establish, make and open a road to communicate between the said Bridge and the public road or Queen's highway, the said Alexandre Maurice Delisle, Benjamin Henri Lemoine and Jean Baptiste Debien, their heirs, executors, curators and assigns, and the persons by them employed, doing as little damage as may be, and making reasonable and just satisfaction to the respective owners and occupiers of all such lands and grounds as shall be altered, damaged or made use of, for the value of such land as well as for that of the alteration or of the damages which they may cause to the proprietors, by means of or for the purpose of erecting the said Bridge and the said Toll-house, and the opening of the said road or roads, as above designated; and in case of difference of opinion and dispute about the *quantum* of such satisfaction, the same shall be settled by Her Majesty's Court of Queen's Bench for the District of Montreal after a previous visitation, examination and estimation of the premises shall have been made by *Experts* to be named by the parties respectively, and in default of such nomination by them, or either of them, then by the said Court, in manner and form prescribed by law; and the said Court is hereby authorized and empowered to hear, settle and finally determine the amount of such compensation in consequence: Provided always, that the said Alexandre Maurice Delisle, Benjamin Henri Lemoine, and Jean Baptiste Debien, their heirs, executors, curators and assigns, shall not commence the erection of the said Bridge and other works by which any person may be deprived of his land or part thereof, or may suffer damage, before the price or value of the said land and damages, estimated and settled in manner before prescribed, shall have been paid to such person, or such price or value shall have been offered to him, and that on his refusal thereof the said Alexandre Maurice Delisle, Benjamin Henri Lemoine, and Jean Baptiste Debien, shall have deposited it at the office of the Prothonotary of the Court of Queen's Bench for the said District of Montreal.

Proviso: compensation to be paid before Bridge is commenced.

Bridge, &c. vested in the said A. M. Delisle and others, &c.

At the expiration of fifty years, Her Majesty may assume the possession of the said Bridge, &c.,

Proviso: Inhabitants may assume the Bridge.

III. And be it enacted, That the said Bridge and the said Toll-house, Turnpike and dependencies to be erected thereon, or near thereto, and also the ascents or approaches to the said Bridge, and all materials which shall be from time to time found or provided, for erecting, building or maintaining and repairing the same, shall be vested in the said Alexandre Maurice Delisle, Benjamin Henri Lemoine, and Jean Baptiste Debien, their heirs and assigns for ever: Provided, that after the expiration of fifty years from the passing of this Act, it shall and may be lawful for Her Majesty, Her Heirs and Successors, to assume the possession and property of the said Bridge, Toll-house, Turnpike and dependencies, and the ascents and approaches thereto, upon paying to the said Alexandre Maurice Delisle, Benjamin Henri Lemoine, and Jean Baptiste Debien, their heirs, executors, curators or assigns, the full and entire value which the same shall, at the time of such assumption, bear and be worth: Provided always, that nothing herein contained shall be construed to prevent any number of inhabitants interested in the said Bridge, from assuming at any time the possession and property of the said Bridge, Toll-house, Turnpike and dependencies, and the ascents and approaches thereto, upon paying to the said Alexandre Maurice Delisle, Benjamin Henri Lemoine and Jean Baptiste Debien, their heirs, executors, curators and assigns, the full and intrinsic value which the same shall at the time of such assumption, bear and be worth, with an addition of twenty-five per cent. upon such

such intrinsic value, and that after such assumption of the said Bridge, it shall become a free Bridge.

IV. And be it enacted, That in erecting the said Bridge there shall be left one opening between the pillars thereof, of at least sixty feet in width, at the deepest part of the river.

An opening to be kept between the pillars for the passage of rafts.

V. And be it enacted, That when and so soon as the said Bridge shall be erected and built, and made fit and proper for the passage of travellers, cattle and carriages, and that the same shall have been certified by any two or more Justices of the Peace for the District of Montreal, after the examination thereof, by three *Experts* to be appointed and sworn by the said Justices, and shall have been advertised in one of the public newspapers published in Montreal, in both languages, it shall be lawful for the said Alexandre Maurice Delisle, Benjamin Henri Lemoine, and Jean Baptiste Debien, their heirs, executors, curators and assigns, from time to time, and at all times, to ask, demand, receive, recover and take, to and for their own proper use, benefit and behoof for Pontage, as, or in the name of a Toll or Duty, before any passage over the said Bridge shall be permitted, the several sums following, that is to say :

When A. M. Delisle, &c., shall be entitled to tolls.

For every carriage drawn by four horses, or other animals, ten pence ;

For every carriage drawn by two horses, or other animals, seven pence and one half-penny ;

The Rates and Tolls.

For every carriage drawn by one horse or other animal, five pence ;

For every extra horse or other animal, two pence ;

For every horse or other animal and its rider, three pence ;

For every ox, cow or other quadruped not enumerated, one penny and one half-penny ;

For every pig, calf or sheep, one penny ;

For every person on foot, one penny.

Provided always, that if any vehicle drawn by one horse, or other beast, only, shall contain a load of more than ten hundred weight, it shall pay Toll as if drawn by two horses or other beasts, and so on ; and if any vehicle drawn by two horses or other beasts, shall contain a load of more than twenty hundred weight, it shall pay toll as if drawn by three horses, or other beasts, and so in proportion for vehicles drawn by more than two horses, or other beasts, ten hundred weight of load being allowed for each horse, and additional Toll being chargeable for each additional ten hundred weight as for one horse, and any fraction of ten hundred weight being reckoned as ten hundred weight.

VI. Provided always, and be it enacted, That no person, horse or carriage, employed in conveying a mail or letters under the authority of Her Majesty's Post Office, nor the horses or carriages, laden or unladen, and drivers, attending officers and soldiers of Her Majesty's Forces, or of the Militia whilst upon their march or on duty, nor the said officers and soldiers, nor any of them, nor carriages and drivers or guards, sent with prisoners of any description, as well going as coming, provided they are not otherwise loaded, shall be chargeable with any Toll or Rate whatsoever : Provided also, that

Exemption in certain cases.

it

A. M. Delisle, &c., may reduce and afterwards raise the Tolls.

Table of rates to be posted up.

it shall and may be lawful for the said Alexandre Maurice Delisle, Benjamin Henri Lemoine, and Jean Baptiste Debien, their heirs, executors, curators or assigns, to diminish the said Tolls, or any of them, and afterwards if they shall see fit, again to augment the same, or any of them, so as not to exceed in any case the rates hereinbefore authorized to be taken: Provided also, that the said Alexandre Maurice Delisle, Benjamin Henri Lemoine, and Jean Baptiste Debien, their heirs, curators or assigns, shall affix or cause to be affixed, in some conspicuous place at or near the said Toll-gate, a Table of the Rates payable for passing over the said Bridge; and so often as such rates may be diminished or augmented, they shall cause such alteration to be affixed in manner aforesaid.

Tolls vested in A. M. Delisle, &c., unless Her Majesty shall assume possession of the bridge.

VII. And be it enacted, That the said Tolls shall be and the same are hereby vested in the said Alexandre Maurice Deslisle, Benjamin Henri Lemoine, and Jean Baptiste Debien, their heirs and assigns for ever: Provided, that if Her Majesty shall, in the manner hereinbefore mentioned, after the expiration of fifty years from the passing of this Act, assume the possession and property of the said Bridge, Toll-house, Turnpike and dependencies and the ascents, and approaches thereto, then the said Tolls shall, from the time of such assumption, appertain and belong to Her Majesty, Her Heirs and Successors, who shall from thenceforward be substituted in the place and stead of the said Alexandre Maurice Deslisle, Benjamin Henri Lemoine, and Jean Baptiste Debien, their heirs and assigns, for all and every the purposes of this Act.

Penalty on persons forcibly passing the Turnpike without paying Toll, &c.

VIII. And be it enacted, That if any person shall forcibly pass through the said Turnpike, without paying the said Toll or any part thereof, or shall interrupt or disturb the said Alexandre Maurice Delisle, Benjamin Henri Lemoine, and Jean Baptiste Debien, their heirs, executors, curators or assigns, or any person or persons employed by them, for building or repairing the said Bridge, or making or repairing the way over the same, or any road or avenue leading thereto, or shall at any time drive faster than a walk on the said Bridge, every person so offending, in each of the cases aforesaid, shall for every such offence forfeit a sum not exceeding forty shillings currency.

Exclusive privilege within certain limits.

IX. And be it enacted, That as soon as the said Bridge shall be passable and opened for the use of the public, no person or persons shall erect or cause to be erected, any bridge or bridges, whether the same be free or subject to Toll, or works, or use any ferry for the carriage of any person, cattle or carriage whatsoever for hire, across the said River Jésus, between a point one league below the Bridge of James Porteous or his legal representatives, now existing over the said River, and the line road now opened on Isle Jésus, above the Village of Terrebonne, and leading to the church of Saint Vincent de Paul, that is to say between the lower extremity of the exclusive privilege of the said James Porteous or his legal representatives, and the upper extremity of the exclusive privilege of John McKenzie or his legal representatives over the said River; and if any person or persons shall erect a Toll-bridge or Toll-bridges or any bridge or bridges of any kind whatsoever, over the said River, within the said limits, he or they shall pay to the said Alexandre Maurice Delisle, Benjamin Henri Lemoine and Jean Baptiste Debien, their heirs, executors, curators and assigns, treble the Tolls hereby imposed, for the persons, cattle and carriages, which shall pass over such bridge or bridges; and if any person or persons shall at any time, for hire or gain, pass or convey any person or persons, cattle or carriages, across the said River, within the

Penalty for contravention.

the limits aforesaid, such offender or offenders shall, for each carriage or person or animal so carried across, forfeit and pay a sum not exceeding forty shillings, currency: Provided that nothing in this Act contained shall be construed to prevent the public from passing any of the fords in the said River, within the limits aforesaid, or in canoes or other water carriages, without gain or hire.

Proviso.

X. And be it enacted, That if any person shall maliciously pull down, burn or destroy the said Bridge, or any part thereof, or the Toll-house to be erected by virtue of this Act, every person so offending and thereof legally convicted, shall be deemed guilty of felony.

Penalty on persons pulling down the Bridge, &c.

XI. And be it enacted, That the said Alexandre Maurice Delisle, Benjamin Henri Lemoine, and Jean Baptiste Debien, to entitle themselves to the benefits and advantages to them by this Act granted, shall and they are hereby required to erect and complete the said Bridge, Toll-house, Turnpike and dependencies, within four years from the day of the passing of this Act: and if the same shall not be completed within the term last mentioned, so as to afford a convenient and safe passage over the said Bridge, they, the said Alexandre-Maurice Delisle, Benjamin Henri Lemoine and Jean Baptiste Debien, their heirs, executors, curators and assigns, shall cease to have any right, title or claim of, in or to the Tolls hereby imposed, which shall from thenceforward belong to Her Majesty; and the said Alexandre Maurice Delisle, Benjamin Henri Lemoine, and Jean Baptiste Debien shall not, by the said Tolls, or in any other manner or way, be entitled to any reimbursement of the expense they may have incurred in and about the building of the said Bridge; and in case the said Bridge, after it shall have been erected and completed, shall at any time become impassable or unsafe for travellers, cattle or carriages, the said Alexandre Maurice Delisle, Benjamin Henri Lemoine, and Jean Baptiste Debien, their heirs, executors, curators or assigns, shall, and they are hereby required within two years from the time at which the said Bridge shall, by Her Majesty's Court of General Quarter Sessions of the Peace in and for the said District of Montreal, be ascertained to be impassable or unsafe, and notice thereof to them or any of them by the said Court given, to cause the same to be rebuilt or repaired, and made safe and commodious for the passage of travellers, cattle and carriages: and if within the time last mentioned, the said Bridge be not repaired or rebuilt as the case may require, then the said Bridge or such parts thereof as shall be remaining, shall be and be taken and considered to be the property of Her Majesty, and after such default to repair or rebuild the said Bridge the said Alexandre Maurice Delisle, Benjamin Henri Lemoine and Jean Baptiste Debien, their heirs, executors, curators or assigns, shall cease to have any right, title or claim of, in or to the said Bridge, or the remaining parts thereof, and the Tolls hereby granted, and their and each and every of their rights in the premises shall be wholly and for ever determined.

The Bridge to be erected within four years.

Penalty if not completed.

Provision when the Bridge shall become unsafe.

XII. And be it enacted, That the present Act or any of the dispositions therein contained, shall not extend, or be construed to extend, to weaken, diminish or extinguish the rights and privileges of Her Majesty the Queen, Her Heirs and Successors, nor of any person or persons, body politic or corporate, in any of the things therein mentioned, (except as to the power and authority hereby given to the said Alexandre Maurice Delisle, Benjamin Henri Lemoine and Jean Baptiste Debien, their heirs and assigns, and except as to the rights which are hereby expressly altered and extinguished,) but that Her Majesty the Queen, Her Heirs and Successors, and all and every person or persons,

Act not to affect the rights of the Crown.

persons, body politic or corporate, their heirs, and assigns, executors and administrators, shall have and exercise the same rights (with the exceptions aforesaid) as they and each of them had before the passing of this Act, to every effect and purpose whatsoever, and in as ample a manner as if this Act had never been passed.

Penalties how recoverable.

XIII. And be it enacted, That the penalties hereby inflicted, shall, upon proof of the offence, respectively, before any one or more of the Justices of the Peace for the said District of Montreal, either by the confession of the offender, or by the oath of one or more credible witness or witnesses, (which oath such Justice is hereby empowered and required to administer), be levied by distress and sale of the goods and chattels of such offender, by Warrant signed by such Justice or Justices of the Peace, and the overplus, after such penalties and the charges of such distress and sale are deducted, shall be returned upon demand to the owner of such goods and chattels; and one half of such penalties, respectively, when paid and levied, shall belong to Her Majesty, and the other half to the person suing for the same.

How applied.

Certain money levied under this Act to be accounted for to Her Majesty.

XIV. And be it enacted, That the moneys to be levied by virtue of this Act, and not hereinbefore granted to the said Alexandre Maurice Delisle, Benjamin Henri Lemoine, and Jean Baptiste Debien, theirs heirs and assigns, and the several fines and penalties hereby imposed, shall be, and the same are hereby reserved to Her Majesty, Her Heirs and Successors, for the public uses of this Province and the support of the Government thereof, in the manner hereinbefore set forth and contained; and the due application of such moneys, fines and penalties shall be accounted for to Her Majesty, Her Heirs and Successors, through the Lords Commissioners of Her Majesty's Treasury for the time being, in such manner and form as Her Majesty, Her Heirs and Successors shall direct.

Elevation of Bridge under principal arch.

XV. Provided always, and be it enacted, That the said Bridge hereby authorized to be built and erected, over and upon the said River Jésus, shall have an elevation under the principal arch thereof, of at least six feet above the level of the said River, at the time at which the waters thereof are usually at the highest.

Public Act.

XVI. And be it enacted, That this Act shall be deemed a Public Act, and shall be judicially taken notice of as such, by all Judges, Justices of the Peace, and all other persons whomsoever, without being specially pleaded.

MONTREAL: Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CLXXXVIII.

An Act to authorize Amable Archambault and others to erect a Toll-Bridge over the River L'Assomption, and for other purposes therein mentioned.

[30th May, 1849.]

WHEREAS the convenience and the facility of intercourse of the inhabitants of the adjacent Parishes and Concessions, and of the public in general, would be much promoted by the erection of a Toll-bridge over the River L'Assomption, at the Village of L'Assomption, in the County of Leinster, and District of Montreal : And whereas Pierre Urgel Archambault, Narcisse Galarneau, Joseph Pelletier, the younger, Amable Elzéar Archambault, Amable Archambault, Cyriac Chaput, Camille Archambault, and Agapit Chaput, all of the said Village of L'Assomption, and Joseph Félix Larocque, of the City of Montreal, but now absent in Europe, have by their Petition in this behalf, prayed for leave to build a Toll-bridge over the said River, at the aforesaid place : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority, of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall be lawful for the said Pierre Urgel Archambault, Narcisse Galarneau, Joseph Pelletier, the younger, Amable Elzéar Archambault, Amable Archambault, Cyriac Chaput, Camille Archambault, Agapit Chaput, and Joseph Félix Larocque, hereinafter called the Petitioners aforesaid, and they are hereby authorized and empowered at their own costs and charges, to erect and build a good and substantial Toll-bridge over the said River L'Assomption, at some convenient point or place situate in and opposite to the said Village of L'Assomption, and nearly opposite to the Parish Church in the said Village, and to erect and build one Toll-house and Turnpike, with other dependencies on or near the said Bridge, and also to do, perform and execute all other matters and things requisite and necessary, useful or convenient, for erecting and building, maintaining and supporting the said intended Bridge, Toll-house, Turnpike and other dependencies, according to the tenor and true meaning of this Act.

Preamble.

Petitioners authorized to build a Toll-bridge over the River L'Assomption within certain limits.

II. And be it enacted, That for the purpose of erecting, building, maintaining and supporting the said Bridge, the Petitioners aforesaid, their heirs, executors, curators and assigns, shall from time to time have full power and authority to take and use the land

The petitioners may use the land on either side of the River, &c.

making a reasonable satisfaction for all damages.

Arbitration in case of difference.

Proviso.

Bridge, &c. vested in the Petitioners and their representatives for fifty years.

Afterwards to be vested in Her Majesty and to be free.

Compensation to the Petitioners, &c.

Proviso: Bridge may be assumed before fifty years on certain conditions.

land on either side of the said River, and there to work up or cause to be worked up the materials and other things necessary for erecting, constructing or repairing the said Bridge accordingly, and also to take possession of and use as their own property, certain pieces of ground on each side of the said River, at the place where they shall erect and build the said Bridge, for the purpose of establishing, making and opening any road or roads which may be requisite to communicate between the said Bridge and the public road or Queen's highway, on either side of the said River; the Petitioners aforesaid, their heirs, executors, curators and assigns, and the persons by him or them employed, doing as little damage as may be, and making reasonable and just satisfaction to the respective owners and occupiers of all such lands and grounds as shall be altered, damaged or made use of, for the value of such land as well as for that of the alteration or of the damages which they may cause to the proprietors, by means of or for the purpose of erecting the said Bridge and the said Toll-house, and the opening of the communications aforesaid, as above designated; and in case of difference of opinion and dispute about the *quantum* of such satisfaction, the same shall be settled by Her Majesty's Court of Queen's Bench for the District of Montreal, after a previous visitation, examination and estimation of the premises shall have been made by *Experts* to be named by the parties respectively, and in default of such nomination by them, or either of them, then by the said Court in manner and form prescribed by law; and the said Court is hereby authorized and empowered to hear, settle and finally determine the amount of such compensation in consequence; Provided always, that the Petitioners aforesaid, their heirs, executors, curators and assigns, shall not commence the erection of the said Bridge and other works by which any person may be deprived of his land or part thereof, or may suffer damage, before the price or value of the said land and damages, estimated and settled in manner before prescribed, shall have been paid to such person, or such price or value shall have been offered to him, and that on his refusal thereof, the Petitioners aforesaid, shall have deposited it at the Office of the Prothonotary of the Court of Queen's Bench for the said District of Montreal.

III. And be it enacted, That the said Bridge and the said 'Toll-house, 'Turnpike and dependencies, to be erected thereon, or near thereto, and also the ascents or approaches to the said Bridge, and all materials which shall be from time to time found or provided for erecting building or maintaining, and repairing the same shall be vested in the Petitioners aforesaid, their heirs and assigns, for the term of fifty years, from the passing of this Act, and at the end of the said term of fifty years, the said Bridge, Toll-house, Turnpike and dependencies, and the ascents and approaches thereto, shall be vested in Her Majesty, her heirs and successors, and be free for public use, and it shall then be lawful for the Petitioners aforesaid, their heirs, executors, curators and assigns, to claim and obtain from Her Majesty, her heirs and successors, the full and entire value, which the same shall at the end of the said fifty years bear and be worth, exclusive of the value of any Toll or privilege, the said value to be ascertained by three Arbitrators, one of whom to be named by the Governor of the Province for the time being, another by the Petitioners aforesaid, their heirs, executors, curators or assigns, and the third by the said two Arbitrators; Provided that at any time before the expiration of the said term of fifty years, it shall and may be lawful for Her Majesty, Her Heirs and Successors, to assume the possession of the said Bridge and of the dependencies thereof, and the Tolls thereon, upon paying to the Petitioners aforesaid, their heirs or assigns, the full and entire value which the rights and privileges hereby granted

granted to them shall be worth, for that portion of the said term of fifty years then remaining unexpired, such value to be ascertained in case of difference of opinion in the manner provided by law, with regard to property taken by the Commissioners of Public Works, for the public service, the said payment not to be less than the value at the time of the Bridge and dependencies, exclusive of the Tolls and privilege; Provided always, that nothing herein contained shall be construed to prevent the Municipality of the County or Parish, or any number of inhabitants interested in the said Bridge, from assuming at any time the possession and property of the said Bridge, Toll-house, Turnpike and dependencies, and ascents and approaches thereto, upon paying to the Petitioners aforesaid, their heirs, executors, curators and assigns, the full and intrinsic value, which the same shall at the time of such assumption bear or be worth, with an addition of twenty-five per cent. upon such intrinsic value, and that after such assumption of the said Bridge, it shall become a free Bridge.

Proviso:
Bridge may be assumed by the Municipality, &c.

IV. And be it enacted, That in erecting the said Bridge, an opening shall be left between the piers thereof, placed on each side in the middle of the river, or of its principal channel, of at least eighty feet in width, so as to leave a free passage for rafts and other craft, and that over the channel or deepest part of the said River there shall be a Draw-bridge or Swing-bridge of at least thirty feet clear opening, to be at all times opened for the passage of any steamboat or other vessel with masts or funnels.

An opening to be kept between the pillars for the passage of rafts.

V. And be it enacted, That when and so soon as the said Bridge shall be erected and built, and made fit and proper for the passage of travellers, cattle and carriages, and that the same shall have been certified by any two or more Justices of the Peace for the District of Montreal, after the examination thereof by three *Experts* to be appointed and sworn by the said Justices, and shall have been advertised in one of the public newspapers published in the City of Montreal in both languages, it shall be lawful for the Petitioners aforesaid, their heirs, executors, curators and assigns, from time to time, and at all times, to ask, demand, receive, recover and take, to and for their own proper use, benefit and behoof for Pontage, as or in the name of a Toll or Duty, before any passage over the said Bridge shall be permitted, the several sums following, that is to say:

The Petitioners entitled to certain Tolls for Pontage.

For each coach or other four-wheeled carriage or winter carriage, drawn by two horses or other beast of draught, six pence currency;

The Rates and Tolls.

For each four-wheel or two-wheel carriage, or winter carriage, drawn by only one horse or other beast of draught, four pence currency;

For each additional horse or other beast of draught to any of the carriages aforesaid, two pence currency;

For each person on horseback, two pence and one half-penny currency;

For each person on foot, one penny currency;

For each beast of draught or head of neat cattle, one penny and one half-penny currency;

For each sheep, calf, lamb, goat, hog, or other animal of like size, one half-penny currency.

VI.

Petitioners may establish regulations for certain purposes.

Proviso as to persons going and returning, &c.

Exemption in certain cases.

The Petitioners may reduce and afterwards advance the Tolls.

Table of Rates to be posted up.

Tolls vested in the Petitioners, &c. unless Her Majesty shall assume the possession of the Bridge, &c.

Penalty on persons forcibly passing without paying Toll, or interrupting the building the said Bridge, &c.

Exclusive privilege within certain limits.

VI. Provided always, and be it enacted, That it shall be lawful for the Petitioners aforesaid, to establish such regulations as they may deem necessary, and as shall not be repugnant to this Act or to the Laws of Lower Canada, for the management and keeping in repair of the said Bridge, and the commutation of the Tolls, and the rates and conditions of such commutation, and all questions which arise among themselves relative to the said purposes, shall be decided by the majority of votes: Provided always, that no more than one full Toll shall be demanded for passing and repassing once during the same day over the said Bridge, nor shall any Toll be demanded from persons going to or returning from Divine Service at any Church in the Village of L'Assomption on any Sunday or Holy-day, provided they reside in the Parish of L'Assomption, and all Funerals shall pass over the said Bridge free of Toll, whether in going or returning.

VII. Provided always, and be it enacted, That no person, horse or carriage, employed in conveying a mail or letters under the authority of Her Majesty's Post Office, nor the horses or carriages, laden or unladen, and drivers, attending officers and soldiers of Her Majesty's Forces or of the Militia, whilst upon their march, or on duty, nor the said officers or soldiers, nor any of them, nor carriages and drivers or guards, sent with prisoners of any description, as well going as coming, provided they are not otherwise loaded, shall be chargeable with any Toll or Rate whatsoever: Provided also, that it shall and may be lawful for the Petitioners aforesaid, their heirs, executors, curators or assigns, to diminish the said Tolls, or any of them, and afterwards if he or they shall see fit, again to augment the same, or any of them, so as not to exceed in any case the rates hereinbefore authorized to be taken: Provided also, that the Petitioners aforesaid, their heirs, executors, curators or assigns, shall affix or cause to be affixed, in some conspicuous place at or near the said Toll-gate, a Table of the Rates payable for passing over the said Bridge; and so often as such rates may be diminished or augmented, he or they shall cause such alteration to be affixed in manner aforesaid.

VIII. And be it enacted, That the said Tolls shall be and the same are hereby vested in the Petitioners aforesaid, their heirs and assigns for ever: Provided, that if Her Majesty shall, in the manner hereinbefore mentioned, after the expiration of fifty years from the passing of this Act, assume the possession and property of the said Bridge, Toll-house, Turnpike and dependencies, and the ascents and approaches thereto, then the said Tolls shall, from the time of such assumption, appertain and belong to Her Majesty, Her Heirs and Successors, who shall from thenceforward be substituted in the place and stead of the Petitioners aforesaid, their heirs and assigns, for all and every the purposes of this Act.

IX. And be it enacted, That if any person shall forcibly pass through the said Turnpike, without paying the said Toll or any part thereof, or shall interrupt or disturb the Petitioners aforesaid, their heirs, executors, curators or assigns, or any person or persons employed by them, for building or repairing the said Bridge, or making or repairing the way over the same, or any road or avenue leading thereto, or shall at any time drive faster than a walk on the said Bridge, every person so offending, in each of the cases aforesaid, shall, for every such offence, forfeit a sum not exceeding forty shillings currency.

X. And be it enacted, That as soon as the said Bridge shall be passable and opened for the use of the public, no person or persons shall erect, or cause to be erected, any Bridge

Bridge or Bridges, or works, or use any ferry for the carriage of any persons, cattle or carriage whatsoever, for hire, across the said River, nor shall any person erect or cause to be erected any Bridge whatsoever, between the site of the said Bridge and the *Ruisseau du Point du Jour* towards the north-east of the said Village, and any point within the distance of one league below the said Bridge to the south-west, measuring along the bank of the said River, and following the windings thereof; and if any person or persons shall erect a Toll-bridge or Toll-bridges over the said River, within the said limits, he or they shall pay to the Petitioners aforesaid, their heirs, executors, curators and assigns, treble the Tolls hereby imposed, for the persons, cattle and carriages which shall pass over such Bridge or Bridges; and if any person or persons shall at any time, for hire or gain, pass or convey any person or persons, cattle or carriages, across the said river, within the limits aforesaid, such offender or offenders, shall, for each carriage or person or animal so carried across, forfeit and pay a sum not exceeding forty shillings currency: Provided, that nothing in this Act contained, shall be construed to prevent the public from passing any of the fords in the said River, within the limits aforesaid, or in canoes or other water carriage without gain or hire, or to prevent any person from keeping a Ferry for crossing foot passengers only, in a canoe or skiff, at the place commonly known as Marcille's Ferry.

Penalty.

Proviso.

XI. And be it enacted, That if any person shall maliciously pull down, burn or destroy the said Bridge, or any part thereof, or the Toll-house to be erected by virtue of this Act, every person so offending, and thereof legally convicted, shall be deemed guilty of felony.

Penalty on persons pulling down the Bridge or Toll-house.

XII. And be it enacted, That the Petitioners aforesaid, to entitle themselves to the benefits and advantages to them by this Act granted, shall, and they are hereby required to erect and complete the said Bridge, Toll-house, Turnpike and dependencies, within two years from the day of the passing of this Act: and if the same shall not be completed within the term last mentioned, so as to afford a convenient and safe passage over the said Bridge, they the Petitioners aforesaid, their heirs, executors, curators and assigns, shall cease to have any right, title or claim of, in or to the Tolls hereby imposed, which shall from thenceforward belong to Her Majesty; and the Petitioners aforesaid shall not, by the said Tolls, or in any other manner or way, be entitled to any reimbursement of the expense they may have incurred in and about the building of the said Bridge; and in case the said Bridge, after it shall have been erected and completed, shall, at any time, become impassable or unsafe for travellers, cattle or carriages, the Petitioners aforesaid, their heirs, executors, curators or assigns, shall, and they are hereby required, within two years from the time at which the said Bridge shall, by Her Majesty's Court of General Quarter Sessions of the Peace in and for the said District of Montreal, be ascertained to be impassable or unsafe, and notice thereof, to them or any of them, by the said Court given, to cause the same to be rebuilt or repaired, and made safe and commodious for the passage of travellers, cattle and carriages: and if within the time last mentioned the said Bridge be not repaired or rebuilt, as the case may require, then the said Bridge, or such parts thereof as shall be remaining, shall be, and be taken and considered to be the property of Her Majesty, and after such default to repair or rebuild the said Bridge, the Petitioners aforesaid, their heirs, executors, curators or assigns shall cease to have any right, title or claim of, in, or to the said Bridge, or the remaining parts thereof, and the Tolls hereby granted, and their and each and every of their rights in the premises shall be wholly and for ever determined.

Petitioners required to erect the Bridge within two years. Penalty if not completed.

Provision if the Bridge shall become unsafe.

XIII.

The rights of
the Crown,
&c. saved.

XIII. And be it enacted, That the present Act, or any of the dispositions therein contained, shall not extend, or be construed to extend, to weaken, diminish, or extinguish the rights and privileges of Her Majesty the Queen, Her Heirs and Successors, nor of any person or persons, body politic or corporate, in any of the things therein mentioned, (except as to the power and authority hereby given to the Petitioners aforesaid, their heirs and assigns, and except as to the rights which are hereby expressly altered and extinguished,) but that Her Majesty the Queen, Her Heirs and Successors, and all and every person or persons, body politic or corporate, their heirs and assigns, executors and administrators, shall have and exercise the same rights (with the exceptions aforesaid) as they and each of them had before the passing of this Act, to every effect and purpose whatsoever, and in as ample a manner as if this Act had never been passed.

Penalties how
recoverable.

XIV. And be it enacted, That the penalties hereby inflicted shall, upon proof of the offence, respectively, before any one or more of the Justices of the Peace for the said District of Montreal, either by the confession of the offender, or by the oath of one or more credible witness or witnesses, (which oath such Justice is hereby empowered and required to administer,) be levied by distress and sale of the goods and chattels of such offender by Warrant signed by such Justice or Justices of the Peace, and the overplus, after such penalties and charges of such distress and sale are deducted, shall be returned, upon demand, to the owner of such goods and chattels; and one half of such penalties, respectively, when paid and levied, shall belong to Her Majesty, and the other half to the person suing for the same.

How applied.

Certain
moneys levied
under this Act,
and not grant-
ed to the Peti-
tioners, to be
accounted for
to Her Ma-
jesty.

XV. And be it enacted, That the moneys to be levied by virtue of this Act, and not hereinbefore granted to the Petitioners aforesaid, their heirs and assigns, and the several fines and penalties hereby imposed, shall be, and the same are hereby reserved to Her Majesty, Her Heirs and Successors, for the public uses of this Province and the support of the Government thereof, in the manner hereinbefore set forth and contained; and the due application of such moneys, fines and penalties shall be accounted for to Her Majesty, Her Heirs and Successors, through the Lords Commissioners of Her Majesty's Treasury for the time being, in such manner and form as Her Majesty, Her Heirs and Successors shall direct.

Bridge to have
a certain ele-
vation under
the principal
arch.

XVI. Provided always, and be it enacted, That the said Bridge hereby authorized to be built and erected, over and upon the said River L'Assomption, shall have an elevation under the principal Arch thereof of at least seven feet above the level of the said River, at the time at which the waters thereof are usually at the highest.

Public Act.

XVII. And be it enacted, That this Act shall be deemed a Public Act, and shall be judicially taken notice of as such by all Judges, Justices of the Peace, and all other persons whomsoever, without being specially pleaded.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CLXXXIX.

An Act to authorize Joseph Clovis Bélanger, Esquire, and others, to erect a Toll-Bridge over the River Etchemin, in the Parish of St. Anselme, near the Church of the said Parish, in the County of Dorchester, and to incorporate the said Joseph Clovis Bélanger, and others, under the name of the "Saint Anselme Bridge Company," and for other purposes therein mentioned.

[30th May, 1849.]

WHEREAS the convenience and the facility of intercourse of the inhabitants of the Parish of St. Anselme, in the County of Dorchester and District of Quebec, and of the adjacent Parishes and Concessions, and of the public in general, would be much promoted by the erection of a Toll-bridge over the River Etchemin in the said Parish of St. Anselme, at about eight arpents below the Church of the said Parish, in the vicinity of the Ford now at the said place; And whereas Joseph Clovis Bélanger, Esquire, François Audet, Siméon Larochelle, Joseph Couture, Jean Baptiste Gosselin, Joseph Morin, François Baillargeon, François Turgeon, Simon Jobin, Raymond Roy and Nicodème Audet, all of St. Anselme, have by their petition in this behalf prayed to be incorporated by the name and style of "The St. Anselme Bridge Company," and for leave to build a Toll-bridge over the said River Etchemin, in the said Parish of St. Anselme, at the place above mentioned: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the above named persons and their heirs, executors, curators and assigns, and all such other persons as have become or shall at any time hereafter become Shareholders in the said Bridge and its dependencies, shall be and are hereby ordained, constituted and declared to be a body politic and corporate in fact under the name and style of "The St. Anselme Bridge Company," and the said persons are hereby authorized and empowered at their own cost and charges to erect and build a good and substantial Toll-bridge over the said River Etchemin, in the said Parish of St. Anselme, at the above mentioned place, and to erect and build one Toll-house and Turnpike with other dependencies and approaches on or near the said Bridge, and also to do, perform and execute all other matters and things requisite and necessary, useful or convenient, for erecting and building, maintaining

Preamble.

Certain persons incorporated.

Corporate name and powers.

maintaining and supporting the said intended Bridge, Toll-house, Turnpike and other dependencies, according to the tenor and true meaning of this Act; and under the said name of "The St. Anselme Bridge Company," the above mentioned persons, their heirs, executors, curators and assigns, together with all such other persons as are now or shall at any time hereafter become Shareholders in the said Bridge and dependencies and in the said Bridge Company, shall have power to sue and be sued, plead and be impleaded, answer and be answered unto in all Courts of Law and Equity whatsoever having Civil Jurisdiction, or before all Justices of the Peace and other Tribunals having Jurisdiction, and to have a Common Seal, and to alter and change the same at their will and pleasure; and Service of Process in all actions and other judicial proceedings, on the President of the said Company shall be good and sufficient.

Service of
process.

Capital and
shares.

II. And be it enacted, That the Capital of the said Company for the construction of the said Bridge and dependencies shall not exceed six hundred pounds currency, and shall be divided into ninety-six parts or shares of the value of six pounds five shillings currency each, and shall be deemed personal and moveable estate, and as such shall be transferable by sale or otherwise by the Shareholders in the said Company; and any party acquiring one or several of the said Shares shall on the production of a copy of his deed of acquirement to the Directors of the said Company, to be deposited among the Records of the said Company, be considered as a Shareholder in the said Company, and shall enjoy all the privileges and advantages conferred upon and granted by this Act to the other Shareholders in the said Company; Provided always, that no person who shall acquire any Shares in the said Company from a Director thereof, shall be entitled to be a Director in the said Company without having been elected as such; Provided also, that no party who shall have acquired any Share shall be considered as a Shareholder until he shall have produced his deed of acquirement.

Proviso.

Proviso.

Non-liability of
Shareholders.

III. And be it enacted, That no Shareholder in the said Company shall be in any manner whatsoever liable for or charged with the payment of any debt or demand due by the said Corporation beyond the amount or the balance of his Shares remaining unpaid.

First General
Meeting.

IV. And be it enacted, That the First General Meeting of the Shareholders in the said Company after its incorporation, shall be held in the Public Hall of the Presbytery of the Parish of St. Anselme at any time after the expiration of one month, from the day of the passing of this Act, of which meeting notice shall be given at the door of the Church of the said Parish of St. Anselme, by the said Company or by any of the Shareholders appointed for that purpose; and the said notice shall be read and posted up at the door of the Church of the said Parish and given in writing to the Shareholders residing without the limits of the said Parish, at least eight days before such meeting, and shall state the day and hour at which such meeting shall take place; at which meeting the Shareholders present and the absent Shareholders by their proxies, shall appoint a Chairman and a Secretary and shall choose among the said Shareholders twelve Directors to manage the affairs of the said Company, who shall only remain in office as Directors until the second Monday in the month of October thence next ensuing, and at the said first meeting the Shareholders present and the absent Shareholders by their proxies, shall make and establish such By-laws, Rules and Regulations as they shall deem expedient for the management and government of the affairs of the said Company; and the said By-laws, Rules and Regulations shall be

Election of
Directors.

Making
By-laws.

entered

entered in a book to be kept for that purpose by the said Company, and shall bind all parties interested in the said Company as effectually as if they formed part of this Act, and shall be and remain in force until altered, amended, extended or repealed.

V. And be it enacted, That in all cases in which the votes of the Shareholders of the said Company shall be taken, the said votes shall be in proportion to the number of shares held by each Shareholder in the Stock of the said Company, and any Shareholder, if he shall see fit, may vote by proxy; and all questions shall be decided by the majority of votes, and in case of an equal division, the President shall have a casting vote.

Votes in proportion to shares.

VI. And be it enacted, That the majority of the Directors elected as aforesaid, shall after each election of Directors, elect one among themselves to be President, who shall cease to be President at the next election, and also a Secretary who shall at the same time be the Treasurer, but shall not be one of the Directors; and the said Directors shall require good and sufficient security from the said Secretary-Treasurer, whom it shall be lawful for them to remove at their will and pleasure, and the said Directors so appointed, seven of whom shall form a *quorum* without including the President, shall exercise all the powers vested in them: Provided always, that no Director shall have more than one vote at the meetings of the said Directors, and in case of any equal division, the President shall have a casting vote; And provided also, that the said Directors shall conform to the orders and directions given to them by the Shareholders, at the General Meetings of the said Shareholders, in conformity with the Rules and Regulations of the said Company.

Election of President and Secretary-Treasurer.

Security from Secretary-Treasurer.

Quorum.

Proviso.

Proviso.

VII. And be it enacted, That after the first meeting to be held as aforesaid, a General Meeting of the Shareholders in the said Company shall take place on the second Monday of October, in every year, in the Public Hall of the Presbytery of St. Anselme to choose and elect other Directors in the place and stead of the Directors going out of office, and also to transact the business of the said Company and to modify, amend, alter, repeal, or extend the By-laws, Rules and Regulations of the said Company or to substitute others in lieu thereof as may appear to them advantageous; which said meeting shall be called in the same manner as the first meeting except that the said notices shall be given and signed by the Secretary-Treasurer of the said Company; and at all meetings of the said Directors, or of the Shareholders of the said Company, the President of the said Company, elected by the said Directors, and in his absence, a Chairman chosen by the majority of the persons present at such meeting shall preside; and the Secretary-Treasurer shall act as Secretary at all meetings of the said Shareholders: Provided always, that the Directors going out of office may be re-elected, and after each election of Directors, the said Directors shall proceed as above mentioned, to elect a Chairman of the said Directors for the time during which they shall be Directors.

Annual General Meetings and elections.

Who shall preside.

Election of President.

VIII. And be it enacted, That any failure to hold the first General Meeting or any other meeting, or to elect such Directors or President, shall not dissolve the said Company, but such failure or omission shall and may be supplied by and at any Special Meeting to be called as the Directors, in conformity with the By-laws of the said Company may see fit to appoint, and until such election of new Directors, those who may be in office for the time being, shall be and continue in office and exercise all the rights

Failure to elect not to dissolve the Corporation, and provision in such case.

Proviso as to
special Meet-
ings.

rights and powers thereof until such new election be made as hereinbefore provided :
Provided always, that it shall be lawful at all times for any twelve of the Shareholders
in the said Company, if they shall deem necessary and expedient to call a Special
Meeting of all the Shareholders in the Public Hall of the Presbytery of St. Anselme,
after having given notice thereof and read and posted the same at the door of the
Church of the said Parish at least a fortnight before such meeting, and also after having
given notice in writing of such meeting to the Shareholders residing without the limits
of the said Parish, which said notice shall state the purpose of such meeting, and the
said meeting shall proceed to transact the business for which it shall have been called,
in the same manner as at the Annual Meeting.

Appointment
of Auditors.

Removing
Directors, &c.

Altering By-
laws.

IX. And be it enacted, That at any General Meeting three Auditors may be appointed
to examine all accounts of moneys received and disbursed by the Directors, and to
report thereon to the Shareholders ; and that it shall be lawful for the majority of the
Shareholders present, their heirs, executors, curators and assigns, at any Special
Meeting, to remove any of the said Directors and elect others in their stead ; and it
shall also be lawful for them to elect others in the room of any of the said Directors
who may die, resign or become incapable of acting through sickness or any other
cause whatsoever ; and to repeal, modify or amend any of the By-laws of the said
Company, and to enact others in lieu thereof, as they may deem most advantageous
for the said Company.

Calling in of
instalments.

Proviso.

Proviso :
notice of calls.

Enforcing
calls.

Suits for calls.

Proviso: alle-
gation and
proof in such
suits.

X. And be it enacted, That it shall be lawful for the said Directors to meet at all
times and at such meetings to direct such instalments to be paid on the shares as they
shall require, in order to meet the expenses of the said Company ; Provided that no such
instalment shall exceed one pound five shillings, currency, for each share, and provided
also that no instalments shall be made payable within less than a month from each
other, and no instalment shall be demanded unless eight days notice thereof shall be
given at the Door of the Church of the said Parish of Saint Anselme, on a Sunday or
Holy-day, and unless eight days notice in writing shall be given to the Shareholders
residing without the limits of the said Parish ; and all such instalments shall be paid
into the hands of the Secretary-Treasurer at such times and places as shall be ordered
by the said Directors, under the restrictions above mentioned : and if any of the said
instalments shall not be paid at the time required for the payment thereof, it shall be
lawful for the President of the said Company, elected by the Directors as aforesaid, in
the name of the said Company, to sue such Shareholders as shall not have paid the
amount of their instalments before any Court of competent jurisdiction, and to institute
all such legal proceedings as shall be necessary to secure the payment of all sums
due to the said Company ; and the shares of all such Shareholders as shall be sued
and against whom judgment shall be recovered, shall be liable to seizure and sale for
the satisfaction of the said judgments in the same manner as their other goods
and chattels, and as in ordinary actions ; Provided always, that in any action for the
recovery of any instalment due, or of any balance due upon any instalment, it shall
not be necessary to set forth the special matter in the declaration, but it shall be
sufficient to allege that the Defendant is the holder of one or more shares in the said
Company, (stating the number of shares) and that he is indebted to the Company in
the sum of money to which the instalments in arrear shall amount, (stating the
number and amount of such instalments), whereby an action hath accrued to the
Company by virtue of this Act : and it shall be sufficient to maintain the said action
to

to prove by one witness that the Defendant at the time of making such call was a holder of the number of shares mentioned in the declaration, and that a demand was made and notice thereof given, in conformity with the above mentioned requirements, or of any other By-laws which shall have been made for that purpose by the said Company; and it shall not be necessary to prove the appointment of the said Directors, nor any other matter whatsoever in order to obtain judgment in favor of the said Company.

XI. And be it enacted, That it shall be the duty of the said Directors to appoint as many Agents, Officers, Keepers and Servants as they shall deem expedient, for the interests of the said Company, and fix the salaries and remuneration of the said Agents, Officers, Keepers and Servants; and to make all payments and contracts for the purposes of the said Company, and all other matters necessary for the transaction of its affairs; to answer in the name of the said Company in all legal suits and actions, and plead to the same, and generally to do all things which they shall deem necessary and advantageous for the said Company; Provided they shall not be in opposition to the By-laws of the said Company nor to this Act.

Appointment of Officers.

Payments and contracts.

Proviso.

XII. And be it enacted, That it shall be the duty of any person who shall cease to act as Secretary-Treasurer to the said Company, to deliver over to the President thereof, all books, papers, records, documents and other objects which he may have in his possession belonging to the said Company; and on his refusal to deliver over the same on demand to the said President, he shall be liable to the said Company in the sum of twenty-five pounds, currency, and shall deliver up every article in his possession belonging to the said Company with costs; and it shall be lawful for the President in the name of the said Company to sue for the recovery of the said sum and the delivery of the said articles, before any Court of Justice of competent jurisdiction.

Secretary-Treasurer leaving office to give up his papers, &c.

XIII. And be it enacted, That for the purpose of erecting, building, maintaining and supporting the said Bridge, the said Company shall from time to time have full power and authority to take and use the land on either side of the said River, and there to work up or cause to be worked up the materials and other things necessary for erecting, constructing or repairing the said Bridge accordingly, and also to take possession for their use, and as their property, of certain pieces of ground on each side of the said River at the place where they shall erect and build the said Bridge, to establish make and open any Road or Roads which may be necessary to communicate between the said Bridge and the public Road or Queen's highway on both sides of the said River; the said Company and the persons by them employed, doing as little damage as may be, and making reasonable and just satisfaction to the respective owners and occupiers of all such lands and grounds as shall be altered, damaged or made use of for the value of such land, as well as for that of the alteration or of the damages which they may cause to the proprietors by means of or for the purpose of erecting the said Bridge and the said Toll-house, and the opening of the said Road or Roads as above designated; and in case of difference of opinion and dispute about the *quantum* of such satisfaction, the same shall be settled by Her Majesty's Court of Queen's Bench for the District of Quebec, after a previous visitation, examination and estimation of the premises shall have been made by *Experts* to be named by the parties respectively, and in default of such nomination by them or either of them, then by the said Court, in manner and form prescribed by law; and the said Court is hereby authorized and empowered to

Company may take land for the said Bridge, &c.

Roads to the Bridge.

Compensation to be made.

Arbitration if they cannot agree with owners, &c.

hear,

Proviso: compensation to be made before taking the land, &c.

hear, settle, and finally determine the amount of such compensation in consequence: Provided always, that the said Company shall not commence the erection of such Bridge and other works by which any person may be deprived of his land or part thereof, or may suffer damage, before the price or value of the said land and damages, estimated and settled in manner before prescribed, shall have been paid to such person, or such price or value shall have been offered to him, and that on his refusal thereof, the said Company shall have deposited it at the Office of the Prothonotary of the Court of Queen's Bench of the said District of Quebec, or at the Office of the Clerk of any Court of Justice having jurisdiction.

Bridge, &c. Company.

Proviso: after fifty years Her Majesty may assume the Bridge, &c.—
Condition.

Proviso: inhabitants may assume the Bridge, &c.
Condition.

XIV. And be it enacted, That the said Bridge and the said Toll-house, Turnpike and dependencies to be erected thereon, or near thereto, and also the ascents or approaches to the said Bridge, and all materials which shall be from time to time found or provided, for erecting, building or maintaining and repairing the same, shall be vested in the said Company for ever: Provided that after the expiration of fifty years from the passing of this Act, it shall and may be lawful for Her Majesty, Her Heirs and Successors, to assume the possession and property of the said Bridge, Toll-house, Turnpike and dependencies and the ascents and approaches thereto, upon paying to the said Company the full and entire value which the same shall, at the time of such assumption, bear and be worth: Provided always, that nothing herein contained shall be construed to prevent any number of inhabitants interested in the said Bridge from assuming at any time the possession and property of the said Bridge, Toll-house, Turnpike and dependencies, and the ascents and approaches thereto, upon paying to the said Company the full and intrinsic value which the same shall at the time of such assumption, bear and be worth, with an addition of ten per cent upon such intrinsic value, and that after such assumption of the said Bridge it shall become a free Bridge.

Company to take Tolls when the Bridge is opened.

XV. And be it enacted, That when and so soon as the said Bridge shall be erected and built, and made fit and proper for the passage of travellers, cattle and carriages, and that the same shall have been certified by any two or more Justices of the Peace for the District of Quebec, after the examination thereof by three *experts*, to be appointed and sworn by the said Justices, and shall have been advertised in one of the public newspapers published in the City of Quebec, in each of the English and French languages, it shall be lawful for the said Company, from time to time, and at all times, to ask, demand, receive, recover and take, to and for their own proper use, benefit and behoof for pontage, as, or in the name of a Toll or Duty, before any passage over the said Bridge shall be permitted, the several sums following, that is to say:

The Tolls.

For every carriage or other four wheeled vehicle, drawn by two horses or other animal, one shilling currency;

For every four wheeled vehicle, drawn by one horse or other animal, six pence currency;

For every calash or other vehicle, drawn by one horse, five pence currency;

For every extra horse or other animal harnessed to any of the above mentioned vehicles, two pence currency;

For every cart, cariole or sleigh, drawn by one horse or other animal, four pence currency;

For

For every four wheeled wagon, drawn by one horse or by a yoke of oxen, five pence currency ;

For every extra horse or yoke of oxen, one penny half-penny currency ;

For every person on horseback, two pence half-penny currency ;

For every person on foot, one half-penny currency ;

For every horse, ass or mule, two pence currency ;

For every ox, cow or other horned animal, one penny and one half-penny currency ;

For every sheep, lamb, calf, goat, pig or other animal of the same size, one half-penny currency ;

XVI. Provided always, and be it enacted, That no person, horse or carriage employed in conveying a mail or letters, under the authority of Her Majesty's Post Office, nor the horses or carriages, laden or unladen, and drivers, attending officers and soldiers of Her Majesty's Forces, or of the Militia, whilst upon their march, or on duty, nor the said officers or soldiers, nor any of them, nor carriages, or drivers, or guards sent with prisoners of any description, as well going as coming, provided they are not otherwise loaded, shall be chargeable with any Toll or rate whatsoever ; Provided also, that it shall and may be lawful for the said Company to diminish the said Tolls, or any of them, and afterwards, if they shall see fit, again to augment the same or any of them, so as not to exceed in any case the rates hereinbefore authorized to be taken ; Provided also, that the said Company shall affix, or cause to be affixed, in some conspicuous place, at or near the said Toll-gate, a Table of the Rates payable for passing over the said Bridge, and so often as such Rates may be diminished or augmented, they shall cause such alteration to be affixed in manner aforesaid.

Exemption in favour of the Mail and others in Her Majesty's service.

Proviso : Tolls may be levied and again raised.

Proviso : Table of Tolls to be posted up.

XVII. And be it enacted, That the said Tolls shall be, and the same are hereby vested in the said Company for ever ; Provided, that if Her Majesty shall, in the manner hereinbefore mentioned, after the expiration of Fifty years from the passing of this Act, assume the possession and property of the said Bridge, Toll-house, Turnpike and dependencies, and the ascents and approaches thereto, then the said Tolls shall, from the time of such assumption, appertain and belong to Her Majesty, Her Heirs and Successors, who shall from thence forward be substituted in the place and stead of the said Company for all and every the purposes of this Act.

Tolls vested in the Company.

Proviso : If Her Majesty assumes the Bridge.

XVIII. And be it enacted, That if any person shall forcibly pass through the said Turnpike, without paying the said Toll or any part thereof, or shall interrupt or disturb the said Company, or any person or persons employed by them for building or repairing the said Bridge, or making or repairing the way over the same, or any road or avenue leading thereto, or shall at any time drive faster than a walk on the said Bridge, every person so offending in each of the cases aforesaid, shall for every such offence forfeit a sum not exceeding Forty Shillings Currency.

Penalty for passing forcibly without paying Toll.

XIX. And be it enacted, That as soon as the said Bridge shall be passable and opened for the use of the public, no person or persons shall erect, or cause to be erected, any bridge or bridges, or works, or use any ferry for the carriage of any person, cattle or carriage

Exclusive privilege given within certain limits.

Penalty for
infringing
such privilege.

Proviso.

Pulling down
the Bridge, &c.
to be felony.

Bridge to be
completed
within four
years.

Provision if
the Bridge
shall become
impassable.

Saving of the
rights of the
Crown and
others.

carriage whatsoever, for hire across the said River within the distance of one league above and one league below the said Bridge, measuring along the banks of the said River and following its windings; and if any person or persons shall erect a toll-bridge or toll-bridges, or any bridge or bridges of any kind whatsoever, over the said River, within the said limits, he or they shall pay to the said Company treble the Tolls hereby imposed for the persons, cattle and carriages which shall pass over such Bridge or Bridges; and if any person or persons shall at any time, for hire or gain, pass or convey any person or persons, cattle or carriages, across the said River, within the limits aforesaid, such offender or offenders shall for each carriage, or person, or animal so carried across forfeit and pay a sum not exceeding Forty Shillings Currency; Provided that nothing in this Act contained shall be construed to prevent the public from passing any of the Fords in the said River, within the limits aforesaid, or in canoes or other water carriages without gain or hire.

XX. And be it enacted, That if any person shall maliciously pull down, burn or destroy the said Bridge or any part thereof, or the Toll-house to be erected by virtue of this Act, every person so offending and thereof legally convicted shall be deemed guilty of felony.

XXI. And be it enacted, That the said Company, to entitle themselves to the benefits and advantages to them by this Act granted, shall and they are hereby required to erect and complete the said Bridge, Toll-house, Turnpike and dependencies within four years from the day of the passing of this Act; and if the same shall not be completed within the term last mentioned so as to afford a convenient and safe passage over the said Bridge, the said Company shall cease to have any right, title or claim of, in or to the Tolls hereby imposed, which shall from thence forward belong to Her Majesty: and the said Company shall not by the said Tolls, or in any other manner or way, be entitled to any reimbursement of the expense they may have incurred in and about the building of the said Bridge; and in case the said Bridge after it shall have been erected and completed, shall at any time become impassable or unsafe for travellers, cattle or carriages, the said Company shall and they are hereby required within two years from the time at which the said Bridge shall by Her Majesty's Court of General Quarter Sessions of the Peace, in and for the said District of Quebec, be ascertained to be impassable or unsafe, and notice thereof to them by the said Court be given, to cause the same to be made safe and commodious for the passage of travellers, cattle and carriages; and if within the time last mentioned, the said Bridge not repaired or rebuilt as the case may require, then the said Bridge or such parts thereof as shall be remaining, shall be and be taken and considered to be the property of Her Majesty, and after such default to repair or rebuild the said Bridge, the said Company shall cease to have any right, title or claim of, in or to the said Bridge, or to the remaining parts thereof, and the Tolls hereby granted, and their and each and every of their rights in the premises shall be wholly and for ever determined.

XXII. And be it enacted, That the present Act or any of the dispositions therein contained, shall not extend or be construed to extend to weaken, diminish or extinguish the rights and privileges of Her Majesty the Queen, Her Heirs and Successors, nor of any person or persons, body politic or corporate, in any of the things therein mentioned, except as to the power and authority given to the said Company, and

and except as to the rights which are hereby especially altered and extinguished, but that Her Majesty the Queen, Her Heirs and Successors, and all and every person or persons, body politic or corporate, their heirs and assigns, executors and administrators, shall have and exercise the same rights (with the exceptions aforesaid,) as they and each of them had before the passing of this Act, to every effect and purpose whatsoever, and in as ample a manner as if this Act had never been passed.

XXIII. And be it enacted, That the penalties hereby inflicted, shall upon proof of the offence, respectively, before any one or more of the Justices of the Peace for the said District of Quebec, either by the confession of the offender, or by the oath of one or more credible witness or witnesses (which oath such Justice is hereby empowered and required to administer) be levied by distress and sale of the goods and chattels of such offender, by warrant signed by such Justice or Justices of the Peace, and the overplus, after such penalties and the charges of such distress and sale are deducted, shall be returned upon demand to the owner of such goods and chattels, and one half of such penalties, respectively, when paid and levied, shall belong to Her Majesty and the other half to the person suing for the same ; save and except the penalty imposed on the Secretary-Treasurer for the causes above mentioned, which said penalty shall wholly belong to the said Company.

Recovery of penalties hereby imposed.

Application of the same.

XXIV. And be it enacted, That the moneys to be levied by virtue of this Act, and not hereinbefore granted to the said Company and the several fines and penalties hereby imposed, shall be and the same are hereby reserved to Her Majesty, Her Heirs and Successors for the public uses of this Province, and the support of the Government thereof, in the manner hereinbefore set forth and contained ; and the due application of such moneys, fines and penalties shall be accounted for to Her Majesty, Her Heirs and Successors through the Lords Commissioners of Her Majesty's Treasury for the time being in such manner and form as Her Majesty, Her Heirs and Successors shall direct.

As to moneys levied under this Act and not granted to the Company.

XXV. Provided always and be it enacted, That the said Bridge hereby authorized to be built and erected over and upon the said River Etchemin shall have an elevation under the principal arch thereof, of at least seven feet above the level of the said River, at the time of which the waters thereof are usually at the highest.

Height of the principal arch.

XXVI. And be it enacted, That this Act shall be deemed a Public Act, and shall be judicially taken notice of as such by all Judges, Justices of the Peace, and all other persons whomsoever, without being specially pleaded.

Public Act.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CXC.

An Act to authorize John Yule the younger, Esquire, and others, to erect a Mill Dam upon the River Richelieu, in the District of Montreal.

[30th May, 1849.]

WHEREAS it hath been represented by the Petition of John Yule the younger, of Chambly, in the District of Montreal, Esquire, Seigneur, Proprietor in possession of the Fief of Beaulac, in the Seignior of Chambly East, in the said District of Montreal, and Dame Philo Letitia Ash, of Chambly aforesaid, widow of the late William Yule, deceased, in his lifetime of Chambly aforesaid, Esquire, Richard Brock Hatt, Esquire, and the Reverend Joseph Braithwaite, both of Chambly aforesaid, and the said John Yule the younger, in their capacities of Trustees, Executors, Administrators and Fiduciary Legatees under the last Will and Testament of the said late William Yule, Seigniors, Proprietors in possession of the Southerly half of the Seignior of Chambly West, that a certain river called and known as the River Richelieu runs and passes along the front of the said Seignior of Chambly East and Chambly West, the said Seignior of Chambly East being on one side of the said river and the said Seignior of Chambly West being on the other side; and that an extensive Water Power which, up to the present time has been made use of by the said John Yule the younger, individually, and the said Dame Philo Letitia Ash, Richard Brock Hatt, the Reverend Joseph Braithwaite and the said John Yule in their aforesaid capacities, to but a small and limited extent, can be obtained and made available by the construction of a Dam across the said river on the rapids of the said River Richelieu at or near a place or spot commonly known as *La Châte à Baré*, situate at a short distance above a certain Bridge at the Village of Chambly commonly known as Yule's Bridge; and that the construction of such Dam, by rendering the said Water Power available to a greater extent than at present, would enable parties to establish Manufactories which would tend and conduce not only to the interest, prosperity and wealth of the immediate neighbourhood and the surrounding country, but would likewise be advantageous to the general interests of the Province at large, inasmuch as there would thereby be afforded an opportunity to carry into operation within the said Province, establishments for the profitable manufacture of many articles which are now imported from the United States of America and other countries, and would be the means of giving and securing employment to numbers of the labouring class whose present means of subsistence are precarious for many months in the year, and thousands of whom experience, and particularly the experience of the last year has shewn, have by reason of the want of employment in this country been compelled to emigrate into foreign countries, there to seek that subsistence which they could not in consequence obtain in this Province;

Preamble.

And

And whereas it has been further represented by the said Petition that the said River Richelieu is not navigable from the Basin of Chambly to the Town of Dorchester commonly called St. Johns, in the said District, and that the said River Richelieu is connected between the said Basin of Chambly and the said Town of Dorchester or St. Johns by means of a certain canal commonly called the Chambly Canal, and that the construction of the said Dam could not and cannot in any way or manner interfere with the navigation of the said River : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall and may be lawful for the said John Yule the younger, individually, and the said Dame Philo Letitia Ash, Richard Brock Hatt, the Reverend Joseph Braithwaite, and the said John Yule the younger, in their aforesaid capacities, his or their heirs, assigns or legal representatives, to erect, build and construct, or cause to be erected, built and constructed in the said River Richelieu, upon or near the above mentioned site, to wit, at or near a place commonly called *La Chûte à Baré*, at a short distance above a certain Bridge as aforesaid at the Village of Chambly aforesaid, one Dam to extend across the said River Richelieu from the east to the west bank of the said river, the said Dam to be of the height of six feet ; Provided always, that such Dam shall be constructed with an open space or channel, of at least eighty feet in the most navigable part of the said river or in the deepest part thereof or in the middle thereof.

Certain parties empowered to build a Dam over the River Richelieu.

Proviso.

The said parties may bring certain actions for maintaining their rights as to the said Dam.

II. And be it enacted, That the said John Yule the younger, individually, Dame Philo Letitia Ash, Richard Brock Hatt, the Reverend Joseph Braithwaite and the said John Yule the younger, in their aforesaid capacities, his or their heirs, assigns or legal representatives shall be held to possess and be beneficially interested in the said Dam to be so erected, so that he or they may be enabled to institute and sustain, and it shall be lawful for him or them to institute and sustain any action or actions at Law or in Equity against any person or persons who may break down, destroy or injure in any way or manner the said Dam, or who shall in any wise prevent the use and enjoyment thereof by the said John Yule the younger, individually, Dame Philo Letitia Ash, Richard Brock Hatt, the Reverend Joseph Braithwaite and the said John Yule the younger, in their aforesaid capacities, his or their heirs, assigns or legal representatives.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CXCI.

An Act to incorporate *The Mount Hermon Cemetery.*

[30th May, 1849.]

WHEREAS the practice of burying in populous Cities is objectionable, and other provision for the interment of the dead is desirable; And whereas the persons hereinafter named, and others have joined an Association called the Quebec Protestant Cemetery Association, for the purpose of establishing a rural Cemetery near the City of Quebec, and have prayed that they and their successors be incorporated under the name of *The Mount Hermon Cemetery*, for the purpose aforesaid; And whereas it is proper to provide for the permanence of the establishment, the decent preservation of the ground and continued protection to the remains there committed to the earth: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That George O'Kill Stuart, Esquire, Mayor of Quebec, and James Douglas, Jeffery Hale, John Musson, John Gilmour, Henry S. Scott, James Gibb, Christian Wurtele, and Robert Cassells, Esquires, Directors of the said Association, and such others as now are or may hereafter become shareholders in the undertaking aforesaid, and their successors for ever, shall be, and they are hereby constituted a body politic and corporate, in fact and in name by the name of *The Mount Hermon Cemetery*, and by that name they and their successors shall have perpetual succession and a Common Seal, with power to alter and make new the same at pleasure, and may, by that name, contract and be contracted with, sue and be sued, plead and be impleaded in all courts and places whatsoever, and shall have full power and authority to take, have, hold and retain as proprietors, with power to add to the same to an extent not exceeding two hundred acres, all that tract of land in the Fief and Seigniorie of St. Michel, in the banlieue of the City of Quebec of about thirty-two arpents in superficies, bounded in front by the Cap Rouge Road, in the rear partly by the Cime du Cap, and partly by the north-west boundary of lot number twenty-two and the extension thereof towards the north-east, to a point at or near the Cime du Cap, near to which there is a spring; on the north-east by land formerly in the possession of Messrs. Wood and Gray, and on the south-west by Sillery Road; and also all that other tract of land lying on the south-east of the lot above described, bounded on the north-west by the lot aforesaid and adjoining thereto,

Preamble.

Certain persons incorporated.

Corporate name and powers.

Description of the ground for the Cemetery.

thereto, towards the north-east and south-east by the Cime du Cap, and on the south-west by the north-east side of Earl Street, saving always the right of indemnity of the Seignior, and may also hold and take moveable property for the purpose hereinafter mentioned : Provided always, that the said immoveable property shall be held and used as a Protestant Cemetery, and for no other purpose, for ever.

Proviso.

Capital and number of shares.

Votes.

Proxies.

Proviso:

II. And be it enacted, That the Capital Stock of the said Association shall be five thousand pounds, divided into one thousand shares of five pounds each, to be held by Protestants only, and that each proprietor shall be entitled, at all meetings of the members of the said Association, to one vote for each share he may hold up to ten, but no member shall have more than ten votes, and at all meetings of the proprietors, all questions shall be decided by the majority of votes then present : And no person shall be allowed to vote by proxy, unless in cases of absence from the City and Parish of Quebec, and unless such proxy be a proprietor or Shareholder in the said Corporation, and produce written authority ; Provided always, that any female may vote by proxy, such proxy being likewise a Stockholder.

Election of Directors.

Three to retire annually.

Their qualification.

Vacancies how filled.

III. And be it enacted, That the persons above named, and their successors elected according to the Articles of the said Association, shall be Directors of the said Association, three of whom shall retire annually, those retiring first in succession who have the least number of votes, after which the three Directors shall retire annually who have been elected longest without re-election, and the said Directors shall be nine in number, each being a Proprietor of at least five shares, and when any vacancy in the office of Director occurs by death, resignation, removal from Lower Canada, or otherwise, it shall be the duty of the Directors in office to call a meeting for the purpose of supplying such vacancy.

General Meetings to elect Directors.

Special General Meetings.

IV. And be it enacted, That there shall be a General Meeting of the Association, and an election of Directors on some day in each year, in the month of March, to be fixed by the Directors for the time being, for the appointment of three Directors, after ten days' notice of such meeting by public advertisement : and the Directors shall also summon a Special General Meeting of the Shareholders, on a requisition made to them for that purpose, signed by at least ten Shareholders, representing amongst them not less than one hundred shares of the Capital Stock, and all notices of Special General Meetings shall specify the object for which they are called.

Quorum and powers of Directors.

Proviso.

V. And be it enacted, That the management of the affairs and property of the said Corporation shall be vested in the said Directors, and any three Directors shall form a quorum of the Board, and any majority of such quorum, at meetings duly convened by a notice to all the Directors, may exercise all the powers of the Directors ; Provided that no Director shall have more than one vote, at any meeting of Directors, and the President or Chairman shall be chosen by the Directors, and in case of an equal division of votes, the question proposed shall be held to be negatived.

Directors to keep a record of their proceedings, &c.

VI. And be it enacted, That the Directors shall cause books to be kept, in which minutes of all their proceedings shall be recorded, as also monetary statements of the affairs of the Association, and they shall prepare, ten days before the Annual Meeting of the Shareholders, an Annual Report and detail of their proceedings, and of their receipts and expenditure, which report shall remain on the file with the Secretary or Clerk

Clerk or other Officer, and shall be open to the inspection of any Shareholder ; and the account and statements to be made by the Directors shall be so made up to the thirty-first of December of each year, to be laid, as soon as possible, before a Committee of Audit to be composed of three Shareholders, who shall examine the accounts and report at the first annual meeting, and the said Auditors shall be three Shareholders, to be appointed at every annual General Meeting on motion, to act for the ensuing year.

Accounts and statements to be made up and audited.

VII. And be it enacted, That the Directors may call in such portion of the stock subscribed before or after the passing of this Act as they may see fit, by calls not exceeding one pound for each share, payable when and where they may direct, provided that fifteen days' notice thereof be given in two newspapers, published in the said City, but nothing herein contained shall exonerate any existing liability to the said Association, but on the contrary such liability shall be enforced in the same way, and the said Corporation may enforce the payment of calls, and sums now due and called for, as is hereinafter prescribed, with respect to future calls and liabilities, but no proprietor in the said Corporation shall be in any manner whatsoever, liable for, or charged with the payment of any debt or demand due by the Corporation beyond the amount of his, her, or their subscribed share or shares in the Capital Stock of the said Corporation.

Stock how called in.

Liability limited to Stock.

VIII. And be it enacted, That any Shareholder refusing or neglecting, or who shall have refused or neglected to pay any or either of the instalments on his shares, at the time or times required by the notice of the Directors, shall incur a forfeiture of his stock, at the discretion of the Directors, after thirty days' notice of their intention to declare such forfeiture, and they may proceed to the sale thereof if the arrears are not paid up before the sale thereof.

Forfeiture of Stock for non-payment of calls.

IX. And be it enacted, That the said Association may receive donations, devises, legacies and bequests for the purposes of the said Association, and for making, maintaining, and keeping in good order the lots and burial places in which the exclusive right of burial or of placing any monument or tablet may have been granted.

Donations and bequests may be received.

X. And be it enacted, That the said Corporation may, if they have any surplus funds after making the outlay and expenditure authorized by this Act, and paying dividends as hereinafter mentioned, invest the same in public securities, or appropriate the same to such public use, purpose or benefit, as they may think proper ; such purpose to be approved of at a Special General Meeting.

Surplus funds to be appropriated to some public use.

XI. And be it enacted, That the shares in the stock of the said Corporation shall be assignable, but only with the consent and approval of the said Directors, by delivery of the certificates to be issued to the holders of such shares, respectively and by assignment in the form following :

Shares to be transferable, conditionally.

" I, A. B. in consideration of the sum of _____
 " _____ paid me by C. D. do hereby sell and
 " transfer to the said C. D.
 " share in "*The Mount Hermon Cemetery*," to hold to him the said C. D. subject to
 " the same rules, regulations and conditions as the same are now held by me. Which
 " assignment I do hereby accept.

Form of transfer.

" Witness our hands this _____ day of _____ in the
 " year _____, _____

- Or

Or in any other convenient form to be prescribed by any By-law of the said Corporation ; and that by such assignment, the party accepting such transfer shall thenceforth become, in all respects, a member of the said Corporation in respect of such share or shares in the place of the party so transferring the same ; but no such transfer shall be valid or effectual until all calls or instalments due on the shares purporting to be transferred and all debts or moneys due to the said Corporation thereon shall have been fully paid up and discharged ; and a copy of such transfer extracted from the proper book of entry, and purporting to be signed by the Secretary, clerk or other officer of the said Corporation, duly authorized thereto, shall be sufficient *prima facie* evidence of every such transfer in all Courts in this Province.

Calls to be first paid up.

Evidence of transfer.

Directors to dispose of Stock.

To make calls.

Allegations and proof in suits for calls.

How contracts and deeds are to be executed by the Corporation.

Directors to employ gardeners, &c.

May hire horses and mourning coaches, &c.

May institute and defend actions.

XII. And be it enacted, That the Directors shall have full power to dispose of such part of the stock of the said Corporation as may remain to be disposed of, or as may from time to time be added to or fall into the general mass, either by forfeiture or otherwise, on such terms and conditions and to such parties, being Protestants, as they may think most likely to promote the interests of the said Corporation ; and they shall also have full power to make such calls for money from the several proprietors of shares, for the time being, as is hereinbefore provided for, and to sue for, recover and get in all such calls, whether already made or hereafter to be made, and to cause and declare the said shares to be forfeited to the said Corporation, in case of non-payment, on such terms and in such way as they shall see fit to prescribe by any By-law, and in any action to be brought to recover any money, due on any call, made before or after the passing of this Act, it shall not be necessary to set forth the special matter in the declaration, but it shall be sufficient to allege that the defendant is a holder of one share or more in the said stock (stating the number of shares) and is indebted to the Corporation in the sum to which the calls in arrear shall amount (stating the number and amount of such calls) whereby an action hath accrued to the Corporation by virtue of this Act ; and it shall be sufficient to maintain such action to prove by any one witness that the defendant, at the time such call was made, was a Shareholder in the number of shares alleged, and that the calls sued for were made and notice thereof given in conformity with the provisions of this Act or the Articles of Association, and it shall not be necessary to prove the appointment of the Directors nor any other matter whatsoever ; that the said Directors shall and may use and affix, or cause to be used and affixed the common seal of the said Corporation to any documents which in their judgment may require the same, and any act, deed or contract bearing such seal and signed by the President or Chairman (or by any two Directors,) and countersigned by the Clerk or Secretary, shall be held to be the act or deed of the Corporation ; that they may appoint and employ such agents, gardeners, superintendents and other officers and servants of the said Corporation under them as to the said Directors may seem fit, and may fix the remuneration of such officers and servants and remove them at pleasure, and may make any payments and enter into contracts for the execution of the purposes of the said Corporation, and for all other matters necessary for the transaction of its affairs ; may keep and hire hearses and mourning coaches, with the requisite horses for conveying corpses, mourners and other persons to and from the Cemetery, the same to be free of toll of any kind on all occasions, going and coming, and fix the rates for the use thereof, and may exercise all acts of ownership over the land, property and effects of the said Corporation ; may institute and defend, in the name of the said Corporation, all suits at law, and shall and may have power to do all things whatsoever which may be requisite or necessary

to

to give effect to the objects of the Corporation, and to vest the property and funds of the said Association in the Corporation hereby erected; that they shall declare dividends of the profits of the said Corporation, when and as often as the state of the funds thereof may permit, but not in any case to exceed eight *per centum per annum* on the Capital Stock actually paid into the funds of the said Corporation; and they may appoint when special meetings of the Shareholders shall be held, and determine on the mode of giving notice thereof, and of the manner in which the Shareholders may call or require such special meetings to be called: and they shall have power to make By-laws and Regulations for the solemn and decent interment of the dead, for the government and control of the officers and servants of the said Corporation respectively; and shall also have power to make and frame all other By-laws, Rules and Regulations for the management of the business of the said Corporation, in all particulars and details thereof, whether hereinbefore specially enumerated or not, and the same also at any time to alter, change, modify and repeal, which said by-laws, rules and regulations shall be submitted for approval, rejection or alteration by the Stockholders, at the next general meeting, or at a special meeting to be called by the said Directors, and when and as so ratified and confirmed shall be put in writing and duly recorded in the minutes of the said Corporation, and be binding upon and observed and taken notice of by all members of the said Corporation: And any copy of the said By-laws, or any of them, under the hand of the Secretary, clerk or other officer of the said Company, and having the seal of the Corporation affixed to it, shall be received as *prima facie* evidence of such By-laws in all Courts in this Province.

May declare dividends.

Dividends limited.

Calling special Meetings.

They may make By-laws.

To be approved of by the Shareholders.

Certified copies to be *prima facie* evidence.

XIII. And be it enacted, That the said Capital Stock may be increased from time to time to the amount of ten thousand pounds should a majority of votes at a Special Meeting of the Stockholders called for that purpose, composed of persons representing at least two-thirds of the Capital Stock, consider it necessary, by the admission of new Members, or by the addition to the stock of the Members then composing the said Association, upon such terms and conditions and in the manner to be approved and agreed upon; and the capital to be raised by new shares shall be in all respects part of the Capital Stock of the said Association; and every Shareholder of such new stock shall be a Member of the said Corporation, and be entitled to all and every the same powers, privileges and rights as the persons who are now Shareholders, in proportion to the interest or number of shares which he, she or they may acquire, and to the amount of calls paid thereon; and shall also be liable to the same obligations, and stand interested in all the profits and losses of the said undertaking in proportion to the sum he, she or they shall subscribe and pay thereto as effectually as if such other or further sum had been originally raised as part of the said sum of five thousand pounds.

Capital Stock may be increased to £10,000.

Rights of holders of New Stock.

XIV. And be it enacted, That the said Directors may cause the said tract of ground, and such other tracts of ground as may be acquired under the authority of this Act, for the purpose, of the said Cemetery, to be surveyed and divided into lots, a plan of which shall always remain in the possession of the said Directors, and be subject to the inspection of any owner of the said lots, or of any exclusive privilege, and the said Directors may cause the same to be ornamented and improved, and build or cause and permit to be built such Chapel or Chapels thereon, as may be necessary for the purposes of the said Association.

Ground to be surveyed.

To be divided into lots.

To be embellished.

And Chapels erected.

Directors to set apart portions of the Cemetery, and sell therein exclusive rights of burial.

Proviso.

And also the right of erecting monuments, and placing tablets in the Chapel.

No *lods et ventes*.

Proviso.

XV. And be it enacted, That the said Directors shall set apart such parts of the Cemetery as they think fit, for the purpose of selling the same, or of granting an exclusive right of burial in any part of the Cemetery so set apart, and they may sell and dispose of in perpetuity or for a limited time, the exclusive right of burial in lots of ground as well as the said lots in the Cemetery, to Protestants and for the burial of Protestants therein only, at public competition or by private agreement, of such dimensions as they may see fit, and on such terms and conditions as they may think proper: Provided always, that it shall be in the discretion of the Directors to allow of the interments of others; and the said Association may likewise sell the right of placing any monument or gravestone in the Cemetery, or any tablet or monumental inscription on the walls of any Chapel or other building within the Cemetery: and upon the sales of the said lots there shall be no *lods et ventes* or mutation fines due or payable to the Seigniors: And provided always, that no body shall be buried in any lot or in any place wherein the exclusive right of burial shall have been granted by the Association, except with the consent of the owner for the time being, of such lot or exclusive right of burial.

No burials under, or close to Chapels.

XVI. And be it enacted, That no body shall be buried in any vault under any Chapel of the Cemetery, or within fifteen feet of the outer wall of any such Chapel.

Form of grants of lots, &c.

XVII. And be it enacted, That the grant of any lot or of the exclusive right of burial in any part of the Cemetery, either in perpetuity or for a limited time, and of the right of one or more burials therein, or of placing therein any monument, tablet or gravestone, may be made in the form in the Schedule to this Act annexed, or to the like effect: Provided always, that nothing herein contained is to prevent the Association from inserting such other provisions as the interest of the Association may require.

Proviso.

A Register of grants to be kept.

XVIII. And be it enacted, That a Register of all such grants shall be kept by the Clerk of the Association, and within fourteen days after the date of any such grant, an entry or memorial of the date thereof, and of the parties thereto, and also of the consideration for such grant, and also a proper description of the ground described in such grant, so as the situation thereof may be ascertained, shall be made by the said Clerk in such Register; and such Clerk shall be entitled to demand such sum as the Association think fit, not exceeding two shillings and six pence for every such entry or memorial; and the said Register may be perused at all reasonable times by any Grantee or Assignee of any right conveyed in any such grant, upon payment of the sum of one shilling, to the Clerk of the Association.

Fees to Clerk on entries therein.

To be open.

Plan of the Cemetery to be made, &c.

XIX. And be it enacted, That the said plan of the Cemetery shall be made upon a scale sufficiently large to show the situation of every lot and burial-place in all the parts of the Cemetery, so set apart, and in which an exclusive right of burial has been granted, and all such lots and burial-places, shall be numbered, and such numbers shall be entered in a book to be kept for that purpose, and such book shall contain the names and descriptions of the several persons to whom the exclusive right of burial, in any such place of burial has been granted by the Association; and no place of burial, with exclusive right of burial therein shall be made in the Cemetery, without the same being marked out in such plan, and a corresponding entry made in the said book, and the said plan and book shall be kept by the Clerk or other Officer of the said Association, under the direction of the said Directors.

XX. And be it enacted, That the exclusive right of burial in any such place of burial, shall, whether granted in perpetuity or for a limited time, be considered as the personal estate of the Grantee, and may be assigned in his lifetime, or bequeathed by his Will, but neither the same, nor any of the said lots shall be seized or attached for debt; and the said lots may be assigned in like manner.

Rights of burial may be assigned or bequeathed.

XXI. And be it enacted, That an entry of such portion of every Will, whereby the said lot or lots or exclusive right of burial within the Cemetery is or are bequeathed, with a certificate of the same being a true and perfect extract, so far as respects such lot or lots and such exclusive right of burial, signed by the person having the legal custody thereof, shall within six months after the death of the Testator, be made in the said Register, and until such entry no right shall be acquired to any lot or lots or the exclusive right of burial aforesaid; and for every such entry the Clerk of the Association shall be entitled to demand such sum as the Association may prescribe, not exceeding two shillings and six pence.

An entry of bequest to be inserted in the Register.

XXII. And be it enacted, That every such assignment shall within six months after the execution thereof, if executed in Lower Canada, or within six months after the arrival thereof in Lower Canada, if executed elsewhere, be produced to the Clerk of the Association, and an entry or memorial of such assignment shall be made in the Register by the Clerk of the Association, in the same manner as that of the original grant; and until such entry or memorial, no right of burial shall be acquired under any such memorial; and for every such entry or memorial the Clerk shall be entitled to demand such sum as the Association may prescribe, not exceeding two shillings and six pence.

Assignments to be entered in Register.

Fees to Clerk on entry.

XXIII. And be it enacted, That every part of the Cemetery shall be inclosed by walls or other sufficient fences or railings of the height of eight feet at least.

Cemetery to be inclosed.

XXIV. And be it enacted, That the said Corporation shall keep the Cemetery and the buildings and fences thereof in complete repair, and in good order and condition, out of the moneys to be received by them in virtue of this Act.

Cemetery, &c. to be kept in good repair.

XXV. And be it enacted, That the Corporation shall make all necessary and proper sewers and drains in and about the Cemetery, for draining it and keeping it dry; and they may from time to time, as occasion requires, cause any such sewer or drain to open into any existing sewer, with the consent in writing of the persons having the management of the street or road, and of the owners and occupiers of the lands through which such opening is made, doing as little damage as possible to the road or ground wherein such sewer or drain may be made, and restoring it to the same or as good condition as it was in before being disturbed.

Proper drains and sewers to be made.

XXVI. And be it enacted, That if the said Corporation at any time cause or suffer to be brought or to flow into the River Saint Lawrence above low water mark, or into any spring, well, stream, canal, reservoir, aqueduct, pond or watering place, any offensive matter from the Cemetery, whereby the water therein shall be fouled, they shall forfeit for every such offence the sum of twelve pounds ten shillings currency.

Penalty on the Company for fouling any stream, &c.

XXVII.

Penalty how recoverable.

XXVII. And be it enacted, That the said penalty with full costs of suit may be recovered by any person having right to use the water fouled by such offensive matter by a civil action in any Court of competent jurisdiction; provided always, that the said penalty shall not be recoverable unless the same be sued for during the continuance of the offence or within six months after it has ceased.

Damages may be recovered in addition to penalty.

XXVIII. And be it enacted, That in addition to the said penalty of twelve pounds ten shillings (and whether the same be recovered or not) any person having right to use the water fouled by such offensive matter, may sue the said Corporation in a civil action in any Court of competent jurisdiction, for any damage specially sustained by him by reason of the water being so fouled; or if no special damage be alleged, for the sum of two pounds ten shillings for each day during which such offensive matter is brought or flows as aforesaid after the expiration of twenty-four hours from the time when notice of the offence is served on the said Corporation by such person.

Regulations as to burials.

XXIX. And be it enacted, That the said Corporation shall make regulations for ensuring that all burials within the Cemetery are conducted in a decent and solemn manner.

Playing, shouting, and making disturbances, &c. in the Cemetery, forbidden.

XXX. And be it enacted, That every person who shall play at any game or sport, or discharge fire arms, save at a military funeral, in the Cemetery, or who shall wilfully and unlawfully disturb any persons assembled in the Cemetery for the purpose of burying any body therein, or who shall commit any nuisance within the Cemetery, shall forfeit to the Association for every such offence a sum not exceeding five pounds.

Penalty on persons doing damage, &c. within the Cemetery.

XXXI. And be it enacted, That every person who shall wilfully destroy or injure any building, wall or fence belonging to the Cemetery, or destroy or injure any tree or plant therein, or who shall daub or disfigure any wall or fence thereof, or put up any bill therein, or on any wall or fence thereof, or wilfully destroy, injure or deface any monument, tablet, inscription or grave stone within the Cemetery, or do any other wilful damage therein, shall forfeit to the Association for every such offence, a sum not exceeding five pounds, and the penalties imposed by this and the foregoing section may be recovered before any Justice of the Peace or Magistrate, in a summary manner, as prescribed by an Act passed in the fourth and fifth years of Her Majesty's Reign, intituled, *An Act for consolidating and amending the Laws in this Province relative to malicious injuries to property*: Provided always, that over and above the said penalties the said Association may recover the damages sustained.

Proviso.

As to monuments erected without authority.

XXXII. And be it enacted, That the said Association may take down and remove any grave stone, monument, tablet, or monumental inscription which shall have been placed within the Cemetery without their authority.

A public Act.

XXXIII. And be it enacted, That this Act shall be a Public Act, and as such shall be judicially noticed by all Courts, Judges, Magistrates, Justices of the Peace and others whom it may concern, without being specially pleaded or proved.

SCHEDULES

(To which the foregoing Act refers.)

FORM OF GRANT OF RIGHT OF BURIAL.

By virtue of *An Act to incorporate the Mount Hermon Cemetery*, We, the said Mount Hermon Cemetery, in consideration of the sum of _____ to us paid by _____ of _____ do hereby grant unto the said _____ the lot or exclusive right of burial, (or, the right of burying bodies, as the case may be,) or, the right of placing a monument, tablet or grave stone in (here describe the ground intended for the exclusive burial or for placing a monument, tablet, or grave stone, as the case may be, so as to identify the same, and if a lot or place of exclusive burial, add numbered _____ on the plan of the Cemetery, made in pursuance of the said Act,) to hold the same to the said _____ in perpetuity, (or, the period agreed upon) for the purpose of burial, (or, as the case may be.)

Given under our Common Seal, (or, under our hands and seals, as the case may be,) this _____ day of _____ in the year of Our Lord _____

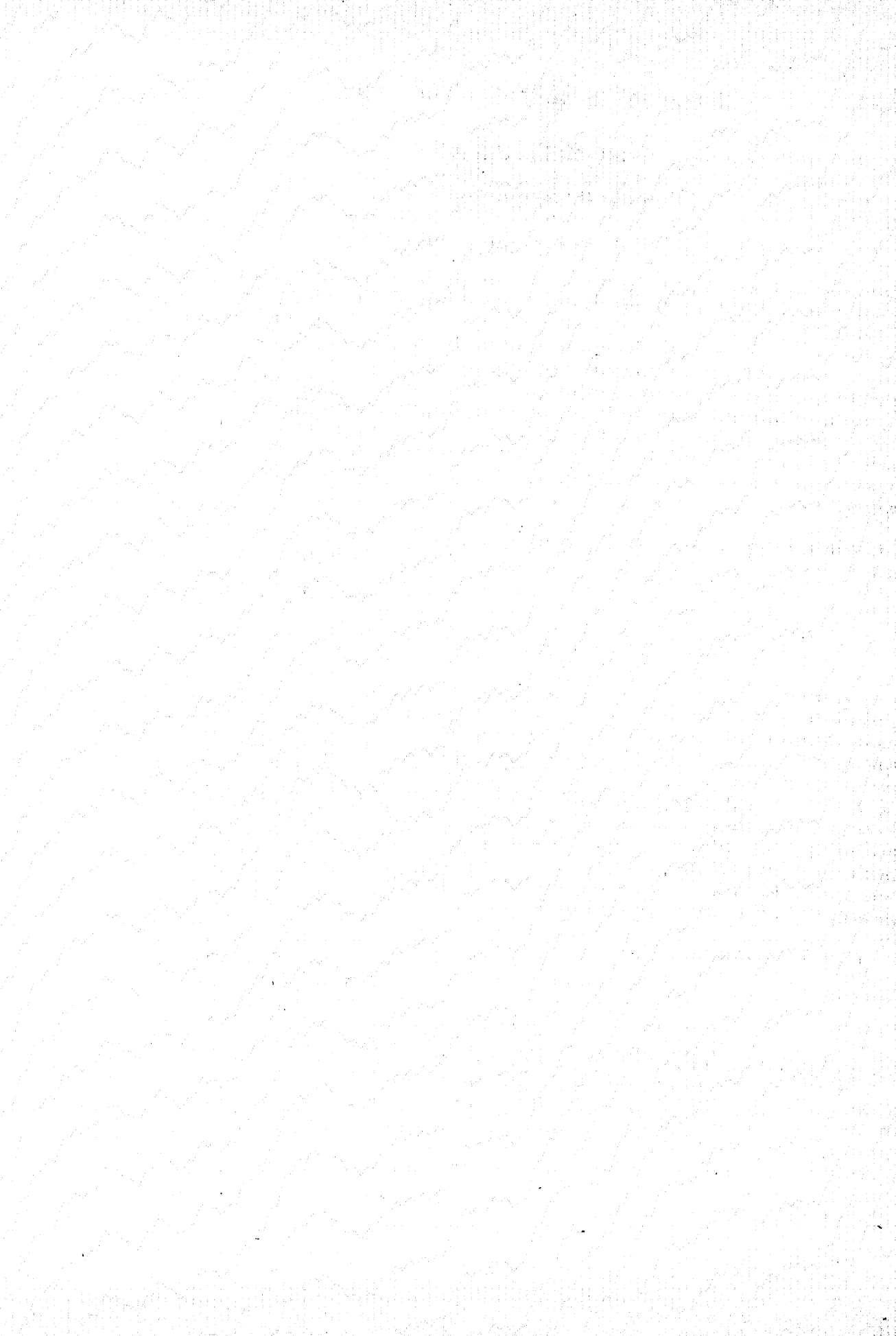
FORM OF ASSIGNMENT OF RIGHT OF BURIAL.

I, A. B. of _____ in consideration of the sum of _____ paid to me by C. D. of _____ do hereby assign unto the said C. D. the lot or exclusive right of burial in (as the case may be,) (here describe the place) and numbered _____ on the plan of the Cemetery, made in pursuance of *An Act to incorporate the Mount Hermon Cemetery*, which was granted to me, (or, unto A. B. of _____,) in perpetuity, (or, as the case may be) by the said Mount Hermon Cemetery, by a Deed of Grant, bearing date the _____ day of _____ and all my estate, title and interest therein, to hold the same unto the said C. D. in perpetuity, (or, as the case may be) for the remainder of the period for which the same was granted by the said Company, subject to the conditions on which I held the same immediately before the execution hereof.

Witness my hand and seal, this _____ day of _____

Signature [L. S.]

MONTREAL : Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty,





ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CXCII.

An Act to incorporate the *Quebec Warehousing Company*.

[30th May, 1849.]

WHEREAS the establishment of a public Warehousing Company at Quebec would materially lessen the cost of transport of the produce of the Province to the English markets, and would greatly tend to promote the trade now springing up with the North Western States of the American Union; And whereas the several persons hereinafter named, are desirous to establish such Company: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That John Gordon, Charles Bockus, John Young, James Hervey, James McDougall, Francis Roger Loomis, William Stone Macdonald, Laurent Têtu, Louis Bilodeau, and Henry Walmsley Welch, together with such person or persons as shall under the provisions of this Act become Shareholders in the Warehousing Company hereby authorized to be established, and their several and respective heirs, executors, administrators and assigns, being proprietors of any such share or shares, are and shall be and be united into a Company for carrying on the said Warehousing business, according to the rules, orders, and directions hereinafter expressed, and shall for that purpose be one body politic and corporate by the name of the *Quebec Warehousing Company*, and by that name shall have perpetual succession and a common seal, and other the usual powers and rights of bodies corporate, not inconsistent with this Act, and by that name shall and may sue and be sued, and also shall and may have power and authority to purchase and hold lands, wharves and stores for them and their successors and assigns, for the carrying on of the said business, without letters of mortmain, (but saving always the *droit d'indemnité* of the Seigneur) within the County of Quebec, and to erect stores, wharves, and other buildings deemed necessary.

Preamble.

Certain persons incorporated.

§ II. And be it enacted, That the Capital Stock of the said Company shall be twenty-five thousand pounds, divided into five hundred shares of fifty pounds each.

Amount of Capital Stock.

§ III. And be it enacted, That no Shareholder in the said Corporation shall be in any manner whatsoever liable for or charged with the payment of any debt or demands due

Shareholders not personally due

liable for debts
of Corporation.

due by the said Corporation beyond the amount of his, her, or their subscribed share or shares in the said Corporation.

Directors for
the time being
liable for the
debts of the
Company.

IV. And be it enacted, That the Directors of the said Company for the time being shall be jointly and severally individually liable to the Creditors of the said Corporation for all debts and liabilities contracted or accrued during the period that such parties may have been Directors as aforesaid, and it shall be the duty of the Directors of the said Company and they are hereby required to cause a list of the Directors of the said Corporation who may be chosen under the provisions of this Act with their descriptions and places of abode to be filed in the office of the Prothonotary of the Court of Queens's Bench for the District of Quebec, within one week from the date of such election, and further to cause to be filed with the said officer returns of all changes which may from time to time be made in the said direction, within one week from every such change, which said lists or returns shall be from time to time registered by the said Prothonotary, in a book to be by him kept for that purpose, which said book any person or persons shall be at liberty from time to time to inspect, upon payment of the sum of one shilling for every search; and the said return or list so registered by the said Prothonotary, or a certified copy thereof under the hand and seal of the said officer, shall be evidence in any Court of Law or Equity in this Province, of the fact that the parties therein described as Directors were duly elected to fill such office and continue to discharge the duties thereof until a change of direction shall have been registered under the provisions of the Act.

Their names
to be filed in
Prothonotary's
office.

Capital Stock
may be in-
creased.

V. And be it enacted, That it shall be lawful for the members of the said Corporation by a vote of not less than two thirds in number of the Shareholders, representing not less than three hundred Shares, at any General Meeting to be called for that purpose, to increase the Capital Stock of the said Corporation by the admission of new members as subscribers to the said undertaking, or otherwise, to one thousand shares of fifty pounds each, and the capital so to be raised by the creation of new shares shall be in all respects part of the Capital Stock of the said Corporation, and every Shareholder of such new stock shall be a member of the said Corporation and be entitled to all and every the same rights, powers and privileges as the persons who are now Shareholders, in proportion to the interest or number of shares which he may acquire, and to the amount of calls paid thereon, and also shall be liable and subject to the same obligations and stand interested in all the profits and losses of the said undertaking, in proportion to the sum he shall subscribe and pay thereto as fully and effectually as if such further sum of twenty-five thousand pounds had been originally raised as a part of the said first sum of twenty-five thousand pounds; any thing herein contained to the contrary notwithstanding.

Corporation
may hold real
property to a
certain
amount.

VI. And be it enacted, That it shall be lawful for the said Corporation to have and hold such lands and immoveable property as may be necessary for carrying on the business of the said Corporation, provided the sum vested in real property, purchased from private individuals, do not at any time exceed Fifty Thousand pounds; and it shall be lawful for the said Corporation to sell, lease, or otherwise dispose of the said property and estate as they may see fit.

Stock of Cor-
poration to be

VII. And be it enacted, That the stock of the said Corporation shall be deemed personal moveable estate, notwithstanding the conversion of any portion of the funds constituting

constituting the same into lands, and at all meetings of the Shareholders held in pursuance of this Act, whether the same be general or special, every Shareholder shall be entitled to as many votes as he shall have shares in the said stock, and such vote or votes may be given in person or by proxy, and all questions proposed or submitted for the consideration of the said Meetings, shall be finally determined by the majority of the votes, except in the case or cases otherwise provided for, and provided also, that no person shall be entitled to vote as proxy at any meeting unless he shall be a Shareholder in the said Corporation, and produce written authority as such proxy in the form prescribed by the Schedule A, to this Act annexed.

deemed personal moveable estate.

Proviso.

VIII. And be it enacted, That the shares in the stock of the said Corporation, shall be assignable by delivery of the Certificates to be issued to the holders of such shares respectively, and by assignment in the form of Schedule B, or in any other convenient form to be prescribed by any By-law of the said Corporation, and that by such assignment, the party accepting such transfer shall thenceforth become in all respects a Member of the said Corporation, in respect of such share or shares, in the place of the party so transferring the same, but no such transfer shall be valid or effectual until all calls or instalments due on the shares purporting to be transferred, and all debts or moneys due to the said Corporation thereon, shall have been fully paid up and discharged; and a copy of such transfer extracted from the proper book of entry, and purporting to be signed by the Clerk or other Officer of the said Corporation duly authorized thereto, shall be sufficient *prima facie* evidence of such transfer, in all Courts of this Province.

Shares to be assignable in form of Schedule B.

IX. And be it enacted, That for the managing of the affairs of the said Corporation, there shall be from time to time, elected out of the Members of the said Corporation, five persons being each a proprietor of not less than five shares of the said capital stock of the said Corporation, for ordering, managing and directing the affairs of the said Corporation, and any three Directors shall form a *quorum* of the Board, and any majority of such *quorum* may exercise all the powers of the Directors: Provided always, that unless at a meeting of a majority of the Directors no By-law, Rule, Resolution or Regulation for raising money or disposing of the real estate of the Corporation shall be finally passed unless confirmed at the next meeting of the Directors to take place upon due notice given: Provided, that no Director shall have more than one vote at any meeting of Directors, except the President, who shall in case of an equal division have the casting vote, although he may have given one vote before, and whenever any vacancy shall happen among the Directors by death, resignation or removal out of the Province, such vacancy shall be filled until the next General Meeting of the Shareholders, in such manner as may be prescribed by any By-law of the Corporation, and the Directors shall have full power to dispose of such part of the stock of the said Corporation as may remain to be disposed of, or as may from time to time be added to or fall into the general mass either by forfeiture or otherwise, on such terms and conditions, and to such parties as they may think most likely to promote the interests of the said Corporation; and they shall have also full power to make such calls for money from the several Shareholders for the time being as shall be found necessary, and to sue for and recover and get in all such calls whether already made or hereafter to be made, and to cause and declare the said shares to be forfeited to the said Corporation, in case of non-payment, on such terms and in such way as they shall see fit to prescribe by any By-law; and in any action to

Election of Directors.

Proviso.

Proviso.

Their powers.

Calls.

Suits for calls.

be

be brought to recover any money due on any call, it shall not be necessary to set forth the special matter in the declaration, but it shall be sufficient to allege that the Defendant is a holder of one share or more in the said stock, (stating the number of shares,) and is indebted to the said Corporation in the sum to which the calls in arrear shall amount, (stating the number and amount of such calls,) whereby an action has accrued to the said Corporation by virtue of this Act, and it shall be sufficient to maintain such action, to prove by any one witness that the Defendant at the time of making such call was a Shareholder to the number of shares alleged, and that the calls sued for were made and notice given thereof, in conformity with the By-laws of the said Corporation, and it shall not be necessary to prove the appointment of the Directors, nor any other matter whatsoever: That the said Directors shall and may use, affix, or cause to be used and affixed the common seal of the said Corporation to any documents which in their judgment may require the same, and any act or deed bearing such seal and signed by the President (or by any two Directors) and countersigned by the Secretary, shall be held to be the act or deed of the said Corporation: That they may appoint such and as many agents, officers, and servants of the said Corporation under them as to the said Directors may seem meet, and may fix the salaries and remuneration of such officers, agents, and servants: May make any payments and enter into contracts for the execution of the purposes of the said Corporation, and for all matters necessary for the transaction of its affairs; may generally deal with treat, purchase, lease, sell, mortgage, let, release and dispose of, and exercise all acts of ownership over the lands, tenements and effects of the said Corporation; may institute and defend in the name of the said Corporation all suits at law; may from time to time displace the officers, agents and servants of the said Corporation except as hereinafter provided for, and that they shall and may have power to do all things whatsoever which may be necessary or requisite to carry out the objects of the said Corporation, and to vest the present property and funds of the said Association in the said Corporation hereby erected: That they shall declare dividends of the profits of the said Corporation when and as often as the state of the funds thereof may permit, may appoint when Special Meetings of the Shareholders shall be held, and determine on the mode of giving notice thereof, and of the manner in which the Shareholders may call or require such Special Meeting to be called; and they shall have power to make By-laws for the government and control of the officers and servants of the said Corporation respectively, and shall also have power to make and frame all other By-laws, Rules and Regulations for the management of the business of the said Corporation in all its particulars and details whether hereinbefore specially enumerated or not, and the same also at any time to alter, change, modify and repeal, which said By-laws, Rules and Regulations shall be submitted for approval, rejection or alteration by the Stockholders at the next General Meeting or at a Special Meeting to be called by the said Directors, and when and as so ratified and confirmed shall be put into writing, and duly recorded in the minutes of the said Corporation, and be binding upon and observed, and taken notice of by all Members of the said Corporation, and any copy of the said By-laws or any of them purporting to be under the hands of the Clerk, Secretary, or other Officer of the said Corporation, and having the Seal of the said Corporation affixed to it, shall be received as *prima facie* evidence of such By-laws in all Courts of this Province, and that access may be had to the said original minutes, and copies taken therefrom by any person or persons desiring the same upon payment of the sum of one shilling for each inspection; Provided always, that the Shareholders may at any General or Special Meeting appoint such salary or compensation to the President and Directors respectively, as to them shall seem reasonable and proper.

Affixing the
common seal.

Appointing
Officers.

Managing
property.

Removing
Officers, &c.

May declare
dividends.

And make
By-laws.

Proviso.

X. And be it enacted, That the first General Meeting of the Shareholders of the said Corporation shall be held at the office of the said Corporation in the City of Quebec (at which place the Corporation shall have its principal place of business) on the third Wednesday in June, one thousand and eight hundred and forty-nine, and at such time and place and on like day in every year hereafter, the said Shareholders shall elect two fit and qualified persons to be Directors of the said Corporation in the place and stead of the two who shall retire, as prescribed in the next following section ; and until such first election, and until they shall respectively retire as aforesaid, the Trustees of the Association aforesaid, to wit, John Gordon, Charles Bockus, James Hervey, Henry Wamsley Welch and William Stone Macdonald, and the survivor or survivors of them shall be and are hereby declared to be and constituted Directors of the said Corporation, and the said John Gordon shall until such day be the President of the said Corporation, and they shall have and exercise all and every the powers and shall be subject to all and every the clauses, conditions, liabilities and restrictions imposed on the Directors to be chosen under this Act ; Provided always, that in all actions or suits or other legal proceedings to be brought against the said Corporation it shall be lawful and sufficient for the plaintiff or complainant or any other party to cause Process to be served at the said office of the said Corporation in the City of Quebec, or personally upon the President or on any one of the Directors, or on the Secretary of the said Corporation at any other place, and provided that at the first Meeting of the Directors to be elected after the passing of this Act, the said Directors shall choose and elect from among themselves, some one to be President and also some one to be Vice-President of the said Corporation.

First General Meeting of Shareholders.

First Directors.

John Gordon to be President of Corporation.

Proviso as to service of Process.

XI. And be it enacted, That at the first General Meeting of the Shareholders, and at the Annual General Meeting in each year thereafter, two of the said Directors shall retire in rotation, the order of retirement of the said five hereinbefore mentioned to be decided by lot, on or before the said third Wednesday in June, one thousand eight hundred and forty-nine : Provided always, that all Directors retiring at any time shall be eligible for re-election, and the Directors immediately after the election at each Annual Meeting shall choose one of their own number to be President.

Order of retirement of Directors.

Proviso.

XII. And be it enacted, That the failure to hold the said first General Meeting, or to elect such Directors or President, shall not dissolve the said Corporation, but such failure or omission shall and may be supplied by and at any Special Meeting to be called as the Directors, in conformity with the By-laws of the said Corporation, may see fit to appoint, and until such election of new Directors those who may be in office for the time being shall be and continue in office and exercise all the rights and powers thereof until such new election be made as hereinafter provided.

Failure to elect Directors not to dissolve the Corporation.

XIII. And be it enacted, That it shall not be lawful for the said Corporation to proceed with their operations under this Act, unless they shall have paid up the sum of ten per cent on the amount of their Capital Stock of twenty-five thousand pounds, on or before the twentieth day of June next.

Ten per cent. to be paid up before commencing.

XIV. And be it enacted, That the word " lands " in this Act shall include all lands, tenements and hereditaments, and real or immoveable property whatsoever, and all words importing the singular number or the masculine gender only shall extend to more than one person, party, or thing, and to all females as well as males, and the word " shareholder "

Interpretation clause.

“shareholder” shall include the heirs, executors, administrators, curators, legatees or assigns of such shareholder, or any other party having the legal possession of any share whatever in his own name or that of any other, unless the context shall be inconsistent with such construction, and whenever power is by this Act given to do any thing, power shall be intended also to do all things which may be necessary to the doing of such things, and generally all words and clauses herein shall receive such liberal and fair construction as will best insure the carrying into effect of this Act, according to its true intent and spirit.

Her Majesty's
rights, &c.
saved.

XV. And be it enacted, That nothing in this Act contained shall in any manner derogate from or affect the rights of Her Majesty, Her Heirs, Her Successors, or of any person or persons, body politic or corporate, excepting so far as the same may be specially derogated from or affected by the provisions of this Act.

Duration of
this Act.

XVI. And be it enacted, That this Act shall remain in force until the first day of May, in the year of our Lord, one thousand nine hundred, and no longer.

SCHEDULE A.

I, A. B., of _____ hereby appoint C. D. of _____ to be my proxy, and to vote and act for me as such, at all Meetings of the Shareholders of the *Quebec Warehousing Company*, and in my name to do all things with regard to the business of the said Company, which I may by law do by proxy.

Witness my hand,
eight hundred

day of

one thousand

A. B.

SCHEDULE B.

FORM OF TRANSFER.

I, A. B., in consideration of the sum of _____ paid to me by C. D. of _____, do hereby bargain, sell, and transfer to the said C. D., _____ shares of the stock of the *Quebec Warehousing Company*, to hold to him the said C. D. his heirs, executors, curators, administrators and assigns, subject to the same rules and orders, and on the same conditions that I held the same immediately before the execution hereof; and I the said C. D. do hereby agree and accept of the said share, subject to the same rules, orders and conditions.

Witness our hands and seals,
eight hundred

day of

one thousand



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CXCI.

An Act to incorporate certain persons under the name of the *Quebec Forwarding Company*.

[30th May, 1849.]

WHEREAS Henry John Noad, James Gibb, T. H. Dunn, Henry LeMesurier, and William Stevenson, by their humble Petition in this behalf, have represented that an Association has been formed in the City of Quebec, in which they and others have become Subscribers and Stockholders for the purpose of transporting Goods, Merchandize and Passengers, from and to Quebec, Lake Champlain, the Upper Lakes, and other places,—that the Capital Stock of the said Association is limited to forty thousand pounds current money of this Province, divided into four hundred shares of one hundred pounds each,—that one hundred and fifty-four shares have been subscribed,—and that the full amount thereof, to wit, the sum of fifteen thousand four hundred pounds said current money, has been paid in, and is held by the said Association, and have prayed that for the better affecting the purposes of their Association, they, their successors and assigns, be incorporated; And whereas the said Association has built and bought divers steam vessels and barges, and has successfully prosecuted the said undertaking for about six years, under the name of *The Quebec Forwarding Company*; And whereas divers debts are now due to them by divers parties who have contracted with them, in the enforcing payment of which debts technical difficulties have arisen, by reason of the multiplicity of the names of the parties interested in the said Association; And whereas also, divers individual members of the said Association have been exposed to suits at law on account of the business of the Company, and other difficulties and embarrassments in the management of the affairs thereof have occurred from the same cause; And whereas the said Company tends to facilitate and promote the inland navigation of the Province: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That Henry John Noad, James Gibb, T. H. Dunn, Henry LeMesurier, and William Stevenson, and all other persons who are now, or may hereafter become Subscribers and Stockholders in the said Association, and all or any other person or persons, bodies politic and corporate, who, as executors, administrators, successors or assigns, or by any other lawful title may hold any part, share or interest of and in the Capital Stock of the same, so long as they shall hold such part, share or

Preamble.

Certain persons incorporated as the Quebec Forwarding Company.

interest therein, their several and respective heirs, executors, curators, administrators, successors and assigns, shall be and they are hereby ordained, constituted and declared to be a body politic and corporate by the name and style of *The Quebec Forwarding Company*, and shall by that name have perpetual succession and a Common Seal, and shall have power from time to time to alter, renew or change such Common Seal at pleasure, and shall and may by the same name be able and capable in law to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended in all Courts of Law and places whatsoever, in all and singular actions, suits, complaints, matters and causes whatsoever, as well upon all causes of action which have arisen before as all such as may arise after the passing of this Act, and also of contracting and being contracted with in all matters and things necessary and requisite in the prosecution of their business, and may make, establish, and put into execution, alter or repeal such By-laws, Rules, Ordinances and Regulations, the same not being contrary to the laws of this Province, and to the constitution thereof, or to the provisions of this Act, as may appear to them necessary or expedient for the management of the business of the said Company: Provided always, that no By-law, Ordinance, Rule or Regulation, shall be in force till the same shall have been approved of at a General Meeting of the Stockholders; and by the same name of the *The Quebec Forwarding Company* they shall hold the several steamers, barges, boats, and all and singular the goods, chattels, debts and credits, which at the time of the commencement of this Act, belonged and appertained to the said Association, and the said steamers, barges, boats, goods, chattels, debts and credits, are hereby vested in the said *Quebec Forwarding Company*; and by the same name of *The Quebec Forwarding Company*, they and their successors and assigns, shall be in law capable of holding any personal estate, goods, chattels or effects, and also any real estate not exceeding in value five thousand pounds current money of this Province, at any one time, for the use of the Company, and of letting to hire, leasing, selling, conveying, or otherwise disposing thereof for the benefit, and on account of the said Company, from time to time as they shall deem necessary; Provided always, that they, the said Henry John Noad, James Gibb, T. H. Dunn, Henry LeMesurier, and William Stevenson, and all other persons who are now or may hereafter become Subscribers and Stockholders in the said Association, their several and respective heirs, executors, curators, administrators, successors and assigns, shall truly pay and satisfy all claims, debts, dues and demands, which shall at the commencement of this Act, lawfully and of right be and remain against the said Association, and which but for the passing of this Act might have been proved against the said Association.

Seven Directors to be appointed whereof one to be President.

II. And be it enacted, That the superintendence, control and management of the affairs of the said Company shall be vested in seven Directors, four of whom shall be a *quorum*, which said Directors shall be Stockholders in the said Company, and shall be elected on the second Monday of January in each and every year, at such time of the day and at such place as a majority of the Directors for the time being shall appoint, and notice shall be given by the said Directors in some one or more newspapers published in the City of Quebec of such time and place, at least ten days previous to the said election, and such election shall be had and made by such of the Stockholders of the said Company as shall attend for that purpose in their own proper person or by proxy, and all elections for Directors shall be by ballot, and the seven persons who shall have the greatest number of votes at any election shall be Directors till the next ensuing annual election, or the appointment of their successors as hereinafter provided for; and at the first meeting of such Directors after their election they shall choose out

of their number a President who shall hold his office during the same period for which the said Directors have been elected and till the appointment of his successor, and it shall be the duty of the said President to preside at all meetings of the Stockholders or Directors, and in case of an equality of votes to give a double or casting vote, and it shall be lawful for the said Directors from time to time, in case of the death, resignation or absence from the Province for six months consecutively of the person so chosen to be President, to choose from among them, the said Directors, another person to be President, in his stead, and in the event of any temporary absence of the said President, whether occasioned by sickness or otherwise, the remaining Directors may by a vote duly recorded in the Register of their proceedings when assembled for the transaction of business, appoint one of themselves to supply the place of such President, and if any vacancy or vacancies shall at any time happen among the Directors by death, resignation or absence from the Province, the same shall be filled for the remainder of the year by such person or persons as the remaining Directors or a majority of them may appoint, and it shall be lawful for the Stockholders at any meeting specially called for that purpose, to remove all or any of the said Directors or the said President, and to appoint others in their or his stead in the same manner as the annual election of Directors is hereby provided for.

Duty of President.

III. And be it enacted, That each Stockholder shall be entitled to a number of votes proportionate to the number of shares which he, she or they shall have held in his, her or their name at least one month previous to the time of voting, being one vote for each share, and all questions brought before the Stockholders at any general or special meeting, shall be decided by a majority of such votes, subject in case of an equality of votes to the casting or double vote of the President.

Stockholders to have number of votes proportioned to number of shares.

IV. And be it enacted, That each and every Stockholder shall be individually liable for all debts and liabilities of the said Company.

Stockholders personally liable for debts of the Company.

V. And be it enacted, That the President or any two or more Directors may at any time and from time to time call a meeting or meetings of the Stockholders, either for general or special purposes, and that any twelve or more Stockholders may from time to time call special meetings of the Company, upon giving at least ten days notice by advertisement in one or more newspapers published in the City of Quebec, or by sending a written or printed notice to each Stockholder by post or otherwise, and every advertisement or notice calling a special meeting shall specify distinctly the purpose or purposes for which such meeting is called, and no other matter or business shall be discussed, concluded upon or settled at such meeting.

President or any two or more Directors may call meetings of Stockholders.

VI. And be it enacted, That if at any time it happen that an election of Directors shall not be made when on any day pursuant to this Act it ought to have been made, the said Corporation shall not for that cause be deemed to be dissolved, but that it shall and may be lawful on any other day to hold and make an election in the same manner as the annual election of Directors is herein provided for.

Default to elect not to operate dissolution of Corporation.

VII. And be it enacted, That it shall be the duty of the Directors to make such yearly dividends of the profits of the said Company as to them or a majority of them shall appear advisable; and that once in each year an exact and particular statement shall be made of their affairs, debts, credits, profits and losses, such statement to appear

Directors to make yearly dividends of profits.

on the books of the Company, and to be open to the perusal of any Stockholder at his or her reasonable request, and a copy thereof, certified by the oath of the President and one of the Directors shall be transmitted annually to the three branches of the Provincial Legislature, which oath any Justice of the Peace is hereby authorized to administer.

Shares to be transferable.

Proviso.

VIII. And be it enacted, That the shares of the said Capital Stock shall be transferable, and may from time to time be transferred by the respective persons holding and owning the same; Provided always, that such transfer be made in the manner prescribed by the By-laws to be made in that behalf by the said Company.

Persons herein mentioned to be Directors and President.

IX. And be it enacted, That Henry J. Noad, James Gibb, T. H. Dunn, Henry Le-Mesurier and William Stevenson, shall be Directors, and the said William Stevenson shall be President of the said Company till the second Monday of January next, and till the appointment of their successors as provided for in this Act, and shall have like power in the management of the Company's affairs as are hereby given to the President and Directors appointed to be in future annually elected.

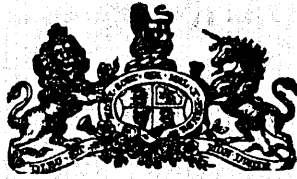
Service of process at Kingston sufficient for enforcement of claims, &c. against Company arising in Upper Canada—
and at City of Quebec when actions have arisen in Lower Canada.

X. And be it enacted, That for the enforcement of all claims, debts, dues and demands, which at the time of the commencement of this Act may exist, or which thereafter may exist against the said Association, or against the said Quebec Forwarding Company, service of process at the Company's Office in the Town of Kingston, in the Midland District, shall be held and deemed to be good and sufficient service in all suits and proceedings at law, commenced or instituted in Upper Canada, and service of process at the Office of the said Company in the City of Quebec shall be held and deemed to be good and sufficient service in all suits and proceedings at law commenced or instituted in Lower Canada.

Public Act.

XI. And be it enacted, That this Act shall be and the same is hereby declared to be a Public Act, and shall be construed as such in all Her Majesty's Courts in this Province, and that judicial notice shall be taken of the same by all Courts, Judges and Justices, and a copy thereof printed by the Queen's Printer or Printer approved by Royal authority for the printing of the Laws of this Province, be held and taken in all Her Majesty's Courts of Justice in this Province as sufficient proof and evidence thereof.

MONTREAL: Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CXCIV.

An Act to incorporate *The Merchants' Exchange and Reading Room of Montreal.*

[30th May, 1849.]

WHEREAS an Association hath been formed in the City of Montreal, by Merchants and others resident in that City and the neighbourhood thereof, under the name of *The Association of the Merchants' Exchange and Reading Room of Montreal*, for the purpose of opening a reading Room for the use and benefit of the Members of the Association, and of such other persons as may hereafter become Members thereof; And whereas George D. Watson, a member of the said Association, hath by his Petition to the Legislature, represented that the said Association has been formed for the purpose of establishing a Merchants' Exchange and Reading Room in the said City, at which Merchants and others, inhabitants of the said City and neighbourhood, might meet each other, and might have the advantage of perusing the newspapers and other periodical publications, and hath prayed that the said Association be incorporated; And whereas it is expedient to grant the prayer of the said petitioner: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That George D. Watson, John Young, Luther H. Holton, William Bristow, Theodore Hart, Alfred Larocque and Wm. B. Cumming, with all such other persons as are now or may hereafter become members of the Corporation under the By-laws thereof, and their successors for ever, shall be and are hereby constituted a body politic and corporate by the name of the *Association of the Merchants' Exchange and Reading Room of Montreal*, and by that name shall have perpetual succession and a common seal, which they may, at their pleasure, change or alter, and by the said name they may from time to time, and at all times have, acquire and possess in any manner whatsoever, for them and their successors, and for the purposes of the said Corporation, any goods or property, real or personal, provided the annual revenue of such real property shall not exceed the sum of seven hundred and fifty pounds currency.

Preamble.

Certain persons incorporated.

Corporate name and powers.

Amount of real property limited.

Domicile of the Corporation.

II. And be it enacted, That the Reading Room of the said Corporation shall be held to be the domicile thereof and service thereat of any process or notice of any kind, addressed

addressed to the said Corporation, shall be held to be sufficient service thereof on the Corporation.

Officers and Board of Management.

III. And be enacted, That the Officers of said Corporation shall be a Chairman, a Treasurer and a Secretary; and the said officers, and four other Members of the Corporation shall be a Board of Management for the affairs thereof, and shall have such powers as shall be assigned to such Board by the By-laws of the Corporation, by which the *quorum* of the Board may also be fixed.

Annual election of Officers, &c.

IV. And be it enacted, That the said officers and other members of the Board of Management, shall be elected for one year only, by the members of the Association, at the General Meeting which shall be held on the third Monday in April, in each year, at the domicile of the Corporation; they may however, be re-elected, with their own consent; and sufficient notice of such general meeting shall be given by the Secretary, eight days at least before the day of holding the same: Provided always, that if the said election should not take place on the day herein-above appointed for it, it may be had at any other subsequent meeting of the said Corporation specially called for this purpose by the Chairman, by public notice given at least eight days before such meeting; and the Officers and other Members of the Board of Management, shall remain in office until such meeting shall be held, and an election had thereat.

Proviso: election may be had on any subsequent day.

As to vacancies between annual elections.

V. And be it enacted, That any vacancy which may occur among the said Officers or other members of the said Company, more than four months before the then next annual election, shall be filled by the appointment of a member or officer to fill such vacancy, by the majority of the other members of the said Board, such appointment being made from among the Members of the Corporation.

Constitution and By-laws.

VI. And be it enacted, That the said Corporation may, for its government, for the management of its property, and for regulating the admission of new members and the conditions on which any person shall remain a Member thereof, adopt such Constitution and make such By-laws as may be thought proper; and such Constitution shall not be annulled, altered or amended, except at some annual meeting for the election of the Board of Management, at which at least fifteen members shall be present, and by four fifths of the members present at such meeting; and no motion, tending to annul, alter or amend any article of such Constitution shall be taken into consideration at such annual meeting, unless notice of such purposed amendment shall have been given to the Chairman at least three months previous to such Annual Meeting, and shall have been, during that time, posted in a conspicuous place in the Reading-Room of the Corporation: Provided always, that neither the said Constitution nor the said By-laws shall be repugnant to this Act or to the laws of the Province: And provided also, that the present By-laws and Constitution of the Association shall be the By-laws and Constitution of the Corporation hereby established, until they be annulled, altered or amended, as aforesaid.

How only the same may be amended, &c.

Proviso.

Proviso: present Constitution, &c. continued until altered, &c.

Members to pay an annual contribution.

VII. And be it enacted, That the members of the said Corporation, whether they shall have been such prior to or after the passing of this Act, shall pay an annual contribution to be fixed by the Board of Management, which contribution if not duly paid, may be recovered by the Corporation in any Court having jurisdiction in civil cases to the amount.

VIII. And be it enacted, That the members of the said Corporation shall not be personally liable for any debts of the said Corporation. Non-liability
of Members.

IX. And be it enacted, That the officers and members of the Board of Management of the said Association shall be and remain the officers and members of the Board of Management of the Corporation hereby established until the first annual election of such officers and members under this Act ; and the property of the said Association shall on the passing of this Act become and be the property of the said Corporation, and the debts and liabilities of the said Association shall become and be the debts and liabilities of the said Corporation, which shall be and is hereby substituted in the place of the said Association to all intents and purposes. Present
Officers con-
tinued.

Property and
liability of the
Association
transferred.

X. And be it enacted, That this Act shall be held to be a Public Act, and as such shall be judicially noticed by all Judges, Justices of the Peace and others whom it may concern, without being specially pleaded. Public Act.

MONTREAL: Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.

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ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CXCIV.

An Act to enable Charles James Stuart, Esquire, to practice the Law in Lower Canada.

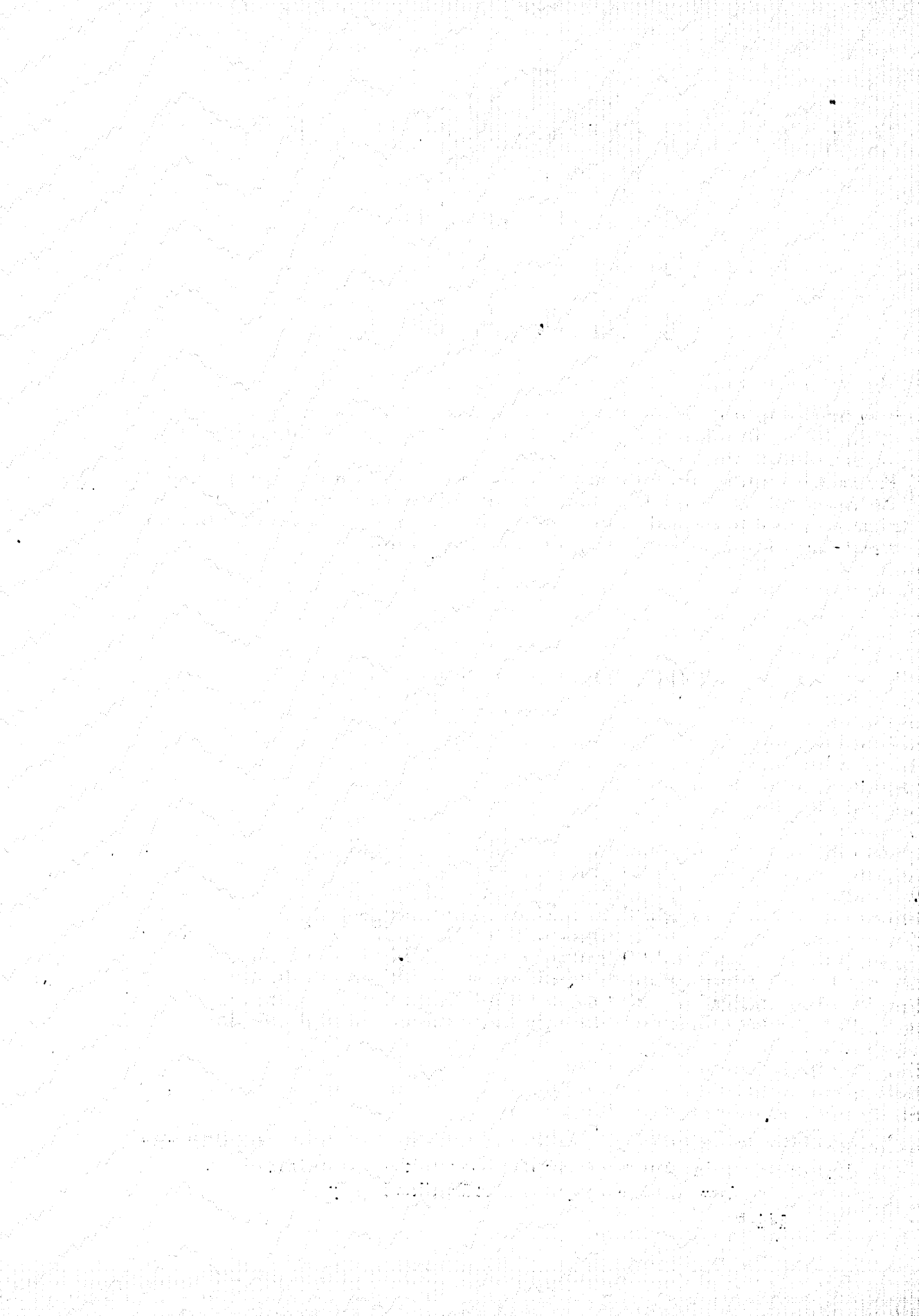
[25th April, 1849.]

WHEREAS Charles James Stuart, of the City of Quebec, Esquire, by his Petition in this behalf, hath represented that he was, on the third day of April, in the year one thousand eight hundred and forty-one, articed as a clerk to George O'Kill Stuart, of the City of Quebec, Esquire, Advocate, for the purpose of becoming qualified for admission to the Bar in Lower Canada, and continued to discharge the duties of clerk as aforesaid, till the spring of the year one thousand eight hundred and forty-two; that, with a view to his better education and improvement, he was then sent to England, and in June last was admitted to the degree of Master of Arts of University College, in the University of Oxford, and in January preceding was called to the Bar in England, by the Honorable Society of the Inner Temple; and that having, during the period of his being articed as a clerk as aforesaid, prosecuted his studies with a view to the practice of the Law in Lower Canada, and having since cultivated the study of the said Law, he is now desirous of obtaining admission to the Bar in Lower Canada, and hath prayed that, under the authority of an Act of the Legislature, he may be commissioned and admitted to the practice of the Law in that part of the Province; And whereas it is reasonable and expedient to grant the prayer of the said Petition: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall and may be lawful to commission and admit the said Charles James Stuart, to practice as a Barrister, Advocate, Attorney, and Proctor at Law, in Her Majesty's Courts of Civil Jurisdiction in Lower Canada, after the said Charles James Stuart shall have undergone examination, and shall have been approved and certified by one of the Justices of the Court of Queen's Bench for the District of Quebec, to be of fit character and capacity to be admitted to practice the Law in the several Courts in Lower Canada as aforesaid; any Law, Ordinance, or Statute to the contrary notwithstanding.

Preamble.

C. J. Stuart may be admitted to practise in Lower Canada after undergoing an examination.

MONTREAL: Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.



PROVINCIAL STATUTES

OF

CANADA,

ENACTED by Her Most Excellent Majesty, Our Sovereign Lady VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, QUEEN, Defender of the Faith, &c., by and with the advice and consent of the Legislative Council and Assembly of the said Province, constituted and assembled by virtue of and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the Third and Fourth years of Her Majesty's Reign, intituled, "*An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada.*"

VOL. II. 2nd Sess. 3rd Parlt, Continued.
RESERVED ACT.



MONTREAL:
PRINTED BY STEWART DERBISHIRE & GEORGE DESBARATS,
LAW PRINTER TO THE QUEEN'S MOST EXCELLENT MAJESTY.

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PROVINCIAL STATUTES

OF

CANADA.

ANNO REGNI DUODECIMO

VICTORIÆ,

DEI GRATIÂ BRITANNIARUM REGINÆ.

HIS EXCELLENCY THE RIGHT HONORABLE

JAMES, EARL OF ELGIN AND KINCARDINE, K. T.

GOVERNOR GENERAL.

**BEING THE SECOND SESSION OF THE THIRD PROVINCIAL PARLIAMENT OF
CANADA.**

RESERVED ACT

To which the ROYAL ASSENT was subsequently promulgated by His Excellency JAMES,
EARL OF ELGIN AND KINCARDINE, K. T. &c. &c. &c. Governor General.





ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CXCVI.

An Act to incorporate *The Toronto, Simcoe, and Lake Huron Union Rail-Road Company.*

30th MAY, 1849.—Presented for Her Majesty's Assent, and Reserved for the signification of Her Majesty's pleasure thereon.

30th JULY, 1849.—Assented by Her Majesty in Privy Council.

29th AUGUST, 1849.—The Royal Assent signified by the Proclamation of His Excellency the EARL of ELGIN and KINCARDINE, Governor General.

WHEREAS George Gurnett, Mayor of the City of Toronto, and upwards of eleven hundred others, Inhabitants and Freeholders of the City of Toronto and the Home and Simcoe Districts, have presented a Petition to the Legislature, praying that an Act might be passed to authorize the construction of a Rail-road from the City of Toronto to some part of the southerly shore of Lake Huron, touching at the Town of Barrie or at some point or points on the shore of Lake Simcoe: And whereas the construction of such Rail-road would greatly contribute to the facility of intercourse between the several Districts and Townships through which the same is intended to pass and the said City of Toronto, and would tend to open a free intercourse with Lake Superior, Green Bay, the State of Winsconsin and other Western States of America, and thereby in a very important manner promote the interests of this Province: And whereas for the purpose of raising funds for the construction of the said Rail-road by means of small contributions, it hath been proposed that the Shares in the Capital Stock of the said Company may either be subscribed for or the Shares may be allotted and distributed among the several Members, Contributors and Subscribers to the said Rail-road Company, by chance or otherwise, as prizes amongst the Members, Subscribers or Contributors to the said undertaking, on the condition, nevertheless, that such sum of money as shall be subscribed or contributed by persons taking scrip in the said Company, shall be solely and entirely expended in the construction of the said Rail-road, and the payment of the expences necessarily incident thereto: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That Frederick Chase Capreol, the Honorable Henry J. Boulton, John Hibbert, Robert Easton Burns, Joseph Curran Morrison, Charles Berczy, Joseph Davis Ridout, George Barrow, Albert Furniss, and Benjamin Holmes, Esquires, together with such person or persons as shall, under the provisions of the said Act, become

Preamble.

Certain persons incorporated.

Name of the
Company.

become subscribers to and proprietors of any share or shares in the Rail-road hereby authorized to be made, and other works and property hereinafter mentioned, being proprietors of any share or shares, are and shall be, and be united into a Company, for the carrying on, making, completing and maintaining the said intended Rail-road and other works, according to the rules, orders and directions hereinafter expressed, and for that purpose shall be and are hereby ordained, constituted and declared to be a Body Politic and Corporate by the name and style of *The Toronto, Simcoe and Huron Rail-Road Union Company*, and by that name shall have perpetual succession and shall have a Common Seal, and other the usual powers and rights of Bodies Corporate not inconsistent with this Act, and by that name shall be capable of contracting and being contracted with, of suing and being sued, pleading and being impleaded, answering and being answered unto in all Courts whatsoever, in all manner of actions, suits, complaints, matters and concerns whatsoever, and also shall and may have the power of purchasing and holding to them and their successors any estate, real, personal or mixed, to and for the use of the said Company, and of letting, conveying and otherwise departing therewith for the benefit and on account of the said Company, from time to time, as they shall deem necessary or expedient, without incurring any penalties or forfeitures whatsoever: And the said Company shall be, and are hereby authorized and empowered from and after the passing of this Act, by themselves, their deputies, agents, officers, workmen and servants, to make and complete a Rail-road to be called *The Toronto, Simcoe and Huron Union Rail-Road*, with one or more sets of rails or tracks, and to be worked by locomotive engines or on the atmospheric principle, or in such other mode as the said Company may deem expedient, from some place in the City of Toronto to some place on the southerly shore of Lake Huron, and touching at the Town of Barrie, or at some point or place on the shore of Lake Simcoe, and in as direct a line as may be found convenient, and to erect wharves, warehouses, stores and other buildings at either termination, and at such other places on the line of the said Rail-road as they may deem expedient: Provided always, and be it further enacted, That the Governor in Council, upon memorial from the said Company, shall determine the gauge which shall be used on the said Rail-road, and such determination shall be declared by Proclamation in the *Official Gazette*, and shall thereupon be binding on the said Company.

Proviso: Go-
vernor in
Council to de-
termine the
Gauge.

Directors to
sell scrip.

II. And be it enacted, That it shall and may be lawful for the said Frederick Chase Capreol, Henry J. Boulton, John Hibbert, Robert Easton Burns, J. C. Morrison, Chas. Berczy, Joseph Davis Ridout, George Barrow, Albert Furniss, B. Holmes and their successors, Directors of the said Company, to nominate and appoint one of their number to be a Manager, who shall be subject in all matters appertaining to the duties imposed upon him by this Act, to the direction and control of the said Directors who are hereby authorized either to sell or dispose of the Capital Stock to the amount of five hundred thousand pounds in shares of five pounds each, either by subscriptions on the books of the Company for such a number of shares as each party may desire to take, the whole number of shares being one hundred thousand, or to sell and dispose of to any person or persons, Bodies Politic or Corporate, any number of tickets or scrips not exceeding in the whole one hundred thousand, constituting a capital of five hundred thousand pounds to be distributed and allotted in one or more drawings by chance or otherwise at and for such price or sum of money for each ticket or scrip as they shall think fit, and under and subject to such stipulations and regulations as to the payment of the sums contracted to be given for the tickets or scrip, and as to the instalment

instalment and time of payment thereof and any advance thereon, and any allowance or discount for prompt payment, and as to any forfeitures or penalties for non-payment of any such sums of money or instalments and as to the whole number of tickets or scrips and the number and value of the fortunate tickets or scrips in such allotments by chance respectively; and also as to the share or shares or amount in stock or capital to be allowed to the owner of any ticket or scrip to be drawn on any or either of the days of distributing of any or either of such allotments, or any other beneficial chance therewith, and as to the days or times and place for the distributing of such allotments by chance respectively as they shall think proper and expedient, and all such regulations, stipulations, forfeitures and penalties shall be valid and effectual, and be obeyed, acted upon and enforced in like manner in every respect as if they had been inserted and enacted in the body of this Act, and that all the moneys to arise by the sale of such tickets or scrips shall be paid into one or more of the Chartered Banks of this Province or a branch or branches of such bank or banks in the said City of Toronto, who shall if required give security to the satisfaction of any two or more of the Directors hereinafter named for duly answering or paying to the said Directors or to their order or the order of any of them, all the moneys they shall receive from time to time in respect of any or either of such allotments or of any tickets or scrips therein, and for accounting duly for the same and for the faithful performance of the trust in them reposed: And be it further enacted, That the said F. Chase Capreol, Henry J. Boulton, John Hibbert, Robert Easton Burns, Joseph Curran Morrison, Charles Berczy, Joseph Davis Ridout, George Barrow, Albert Furniss, and B. Holmes, shall be and are hereby appointed the first Directors, for the purposes hereinafter mentioned and set forth; and in case of the death, absence, resignation or removal of any one or more of them it shall and may be lawful for the survivors of the said Directors to appoint another or others in the room or stead of those of the Directors who may die or be absent, or resign as aforesaid, any thing in this Act to the contrary notwithstanding; but if such appointment be not made, such death, absence, resignation or removal shall not invalidate the acts of the remaining Directors who shall continue Directors until the next annual election of Directors.

F. Chase Capreol, &c. appointed first Directors.

III. And for the establishing a proper method of distributing the said allotment or allotments by chance—Be it enacted, That the said Frederick Chase Capreol, Henry J. Boulton, John Hibbert, Robert Easton Burns, Joseph Curran Morrison, Charles Berczy, Joseph Davis Ridout, George Barrow, Albert Furniss and B. Holmes, shall be Managers and Directors for preparing and delivering out tickets or scrips, and to oversee the drawing of lots, and to order, do and perform such other matters and things relating to such allotment by chance as may be necessary in that behalf, and shall for the said allotments respectively, cause books to be prepared, in which every leaf shall be divided or distinguished into three columns, and upon the innermost of the said three columns there shall be printed, for each of the said allotments, such number of tickets or scrips as shall have been fixed upon for the same, to be numbered one, two, three, and so onward in arithmetical progression where the common excess is to be one, until they rise to the number so fixed upon; and upon the middle column in every of the said books shall be printed the like number of tickets or scrips of the same breadth and form, and numbered in like manner; and in the extreme column of the same books there shall be printed a third rank or series of tickets or scrips of the same numbers with those of the other two columns, which tickets shall severally be of an oblong figure, and in the said books shall be joined with oblique lines, flourishes or devices in such manner as the said Directors or any three or more of them shall think most safe and

Method of distributing allotment.

How books to be prepared.

and convenient, and that every ticket or scrip in the third or extreme column of the said books shall have written or printed thereupon (besides the number of such ticket) such words or figures, and shall be in such form as the said Directors may deem expedient.

Directors to examine tickets.

And deliver to manager for sale.

Manner of issuing tickets.

IV. And be it enacted, That the said Directors shall carefully examine all the said books with the tickets thereon, and take care that the same be contrived, numbered and made according to the true intent and meaning of this Act, and shall deliver or cause to be delivered the same and every or any of them as they shall be examined, and to such amount as to number of shares as to the said Directors shall seem fit, to the Manager aforesaid, for the purpose of distributing the same, taking from such Manager an acknowledgment in writing under his hand importing his receipt of such book or books, and so many tickets therein as shall be delivered to him, so that he may be charged to answer for such sum of money for every one of the tickets in the extreme columns which shall be delivered to him, as the same shall have been sold for, or for so many of them as he shall not deliver back to the said Directors, and the said Manager is hereby directed and required, upon receipt of every or any entire sum of money in full payment for any ticket or tickets from any person or persons contributing in any such allotment by chance, from time to time, to cut out of the said book or books, so to be put into his or their custody, through the said oblique lines, flourishes or devices, indentwise in the said extreme columns, such ticket or tickets as shall be necessary to deliver to the several persons entitled thereto; which tickets the said Directors, or any three or more of them, shall sign with their own names previous to the delivering thereof to the said Manager, who, after himself signing the said ticket, shall permit the person or respective persons so entitled, if it be desired, to write his name or mark on the corresponding tickets in the same book or books, and at the same time the said Manager distributing the tickets aforesaid, shall deliver to such person or persons, to whom they are distributed, the ticket or tickets so cut off, which he, she or they are to keep and use for better ascertaining and securing the interest which he, she or they, his, her or their executors, administrators, successors or assigns shall or may have in the distribution of the said allotment by chance.

Manager to deliver back to Directors fourteen days before drawing, the books and unsold tickets, and to pay and account weekly for tickets sold.

V. And be it enacted, That the said Manager to whom the tickets shall have been delivered for distribution shall, fourteen days before the commencement of each distribution of the allotments by chance, re-deliver to the said Directors all the said books, and therein all the tickets which the said Manager shall not have cut out of the same and delivered to the persons entitled thereto, and shall monthly and every month, or whenever required by the said Directors, from the time of the delivery to him of the said book or books delivered to the said Directors, a true and just account in writing under his hand of all sums of money accrued or come to his hands by or for the tickets delivered or to be delivered out, and how the same and how much thereof shall have been actually paid by him into the hands of the said Directors, or into the said Bank or Banks for the purpose herein mentioned, and that the said Directors or any three or more of them shall retain and keep as cash to be issued, sold and disposed of for raising money for the purpose in this Act mentioned, all the tickets in the said outermost columns which shall not have been delivered (if any such be) in such manner as the said Directors or any three or more of them shall order or direct.

VI. And be it enacted, That the said Manager entrusted with the distribution of the tickets as aforesaid, shall cause all the tickets in the middle columns in the books made out with three columns as aforesaid, which shall be delivered back to him by or from the said Directors as aforesaid, to be carefully rolled up and made fast with thread or silk, and shall in their presence and in the presence of any such contributors as may be there, cause all the said tickets which are to be so rolled up and made fast as aforesaid, to be cut off indentwise through the said oblique lines, flourishes, or devices, into a box to be prepared for that purpose, and to be marked with the letter (A), which is presently to be put in another strong box, and to be locked with three different locks and keys, to be kept by as many of the said Directors, and sealed with their seals, or the seals of some of them, until the said tickets are to be drawn as is hereinafter mentioned, and that the tickets in the first or innermost columns of the said books shall remain still in the books for discovering any mistake or fraud, if any should happen to be contrary to the true meaning of this Act.

How tickets to be prepared for the drawing.

VII. And be it enacted, That the said Manager entrusted with the distribution of the tickets as aforesaid, shall also prepare, or cause to be prepared for the said allotments by chance respectively, other books in which every leaf shall be divided or distinguished into two columns, and upon the innermost of those two columns there shall be printed the number of tickets of each of such allotments respectively, and upon the outermost of the said two columns there shall be printed a like number of tickets, all which shall be of equal length and breadth as near as may be, which two columns shall be joined by some flourish or device through which the outermost ticket may be cut off indentwise, and that such number of tickets as shall be fixed upon for the purpose by the said Directors or any three of them, part of those to be continued in the outermost columns of the books last mentioned, shall be and be called the fortunate tickets to which benefits shall belong, and the said Directors or any three or more of them shall cause the amount of stock which shall have been fixed upon for each of such fortunate tickets to be written or printed thereupon as well in figures as in words in length, and the said Directors or any three or more of them shall cause all the said tickets continued in the outermost columns of the said last mentioned books to be in the presence of the said Manager entrusted with the distribution of the tickets as aforesaid, and in the presence of such contributors as shall be there, to be carefully cut out indentwise through the said flourish or device into another box to be provided for this purpose, and to be marked with the letter (B), which box shall be put into another strong box, and locked up with three different locks and keys, to be kept by as many of the said Directors, and sealed up with their seals or the seals of some of them, until these tickets shall also be drawn in the manner and form hereinafter mentioned, and that the whole business of rolling up, and cutting off, and putting into the said boxes the said tickets, and locking up and sealing the said boxes, shall be performed by the said Directors or any three or more of them before the last six days immediately preceding the day appointed for the drawing of the Lottery to which the tickets shall respectively belong, and to the end that every person concerned may be well assured that the counterpart of the same number with his or her ticket is put into the box marked with the letter A, from whence the same may be drawn and that other matters are done as hereby directed, some public notice in print shall be given of the precise time or times of putting the said tickets into the said boxes, to the end that such contributors as may be minded to see the same drawn may be present at the doing thereof.

Certain books to be kept by manager.

How to prepare tickets for the drawing.

VIII.

Manner of drawing.

VIII. And be it enacted, That on or before the respective days that shall be appointed for the commencement of the distributing of each of the said allotments respectively, the said Directors or any three or more of them, shall cause the said several boxes with all the tickets therein for the said allotments to be brought into some convenient place within the said City of Toronto, whereof due notice shall be published in one or more of the Newspapers published in the several Districts through which it is intended the said Rail-road shall pass, fourteen days at least before the day appointed for the commencement of such distribution, so that the same may be there and placed on a table provided for that purpose, at such hour of the day as the said Directors or any three or more of them shall fix and appoint, and shall then and there attend this service, and cause the two boxes containing the said tickets to be taken out of the other two boxes in which they shall have been locked up, and the tickets in the respective innermost boxes, being in the presence of the said Directors, or such of them as shall be then present, and of such contributors as may be there for the satisfaction of themselves, well shaken and mingled distinctly in each box or wheels provided for the purpose, some one indifferent and fit person to be appointed and directed by the said Directors or the major part of them, or of such of them as shall be then present, shall take out and draw one ticket from the box or wheels where the said numbered tickets shall be put as aforesaid, and one other indifferent and fit person to be appointed and directed in like manner shall take out a ticket from the box or wheels where the fortunate and blank tickets shall be promiscuously put as aforesaid, and immediately both the tickets so drawn shall be opened and the number as well of the fortunate as of the blank ticket shall be named aloud, and if the ticket taken or drawn from the box or wheels containing the fortunate and blank tickets shall appear to be a blank, then the numbered ticket so drawn with the said blank at the same time drawn shall both be put upon one file, and if the ticket so drawn or taken from the box containing the fortunate and blank tickets shall appear to be one of the fortunate tickets, then the principal prize written upon such fortunate ticket shall be entered by a Clerk whom the said Directors or the major part of them as aforesaid shall employ and oversee for this purpose, into a book to be kept for entering the numbers coming up with the said fortunate tickets, and the principal prizes whereunto they shall be entitled respectively, and the said Directors or the major part of them as aforesaid, shall set their names as witnesses to such entries, and the said fortunate and numbered tickets so drawn together, shall be put upon another file and so the said drawing of the tickets shall continue by taking one ticket at a time out of each box and with opening, naming aloud and filing the same, and by entering the fortunate lots in the manner aforesaid until the whole number of fortunate tickets shall be completely allotted, and should the same not be performed in one day, the said Directors or a majority of them shall cause the same to be locked up and sealed in manner aforesaid, and adjourn till the next day of drawing of the said lottery and so for each day of distributing the said tickets by chance as aforesaid, and the said Directors or a majority of them shall and may regulate the time of continuing to allot the tickets, and lessen or increase the number of the tickets to be so allotted on each day of distributing as they or the major part of them shall in their discretion think necessary, and shall proceed therein for such number of days as shall have been appointed by the said Directors or a major part of them for that purpose, till the whole number of fortunate tickets shall be completely drawn as aforesaid, and afterwards the said numbered tickets so drawn with the fortunate tickets drawn against the same, shall be and remain in a strong box locked up as aforesaid, and under the custody of the said Directors, until they shall take them out to examine, adjust and settle the property thereof,

IX. And be it enacted, That if any person or persons shall forge or counterfeit or cause or procure to be forged or counterfeited, or willingly act or assist in the forging or counterfeiting of any ticket or tickets, scrip or scrips, order or orders made forth by virtue of this present Act, or alter any number, figure, or word therein, or knowingly either vend, barter or dispose of any such false, altered, forged or counterfeited ticket or tickets, scrip or scrips, order or orders, or shall bring any such forged or counterfeited ticket, scrip or order, or any ticket, scrip or order the number whereof or any figure or word therein shall have been altered, knowing the same to have been forged, counterfeited or altered, to the said Directors or any of them, or to any other person or persons whatever, with a fraudulent intention, or shall willingly aid, abet, assist, hire or command any person or persons to commit any such offence or offences as aforesaid, then in every such case all and every such person or persons being thereof convicted in due form of law shall be adjudged a felon, and shall be liable to all the pains and penalties of felony, and the said Directors or the major part of them are hereby authorized, required and empowered to cause any person or persons bringing or uttering such forged or counterfeit ticket or tickets, scrip or scrips, order or orders, as aforesaid, or aiding, abetting, assisting, hiring or commanding any person or persons herein, to be apprehended and to commit him, her or them to Her Majesty's Gaol of the District or place where such person shall be so apprehended, to be proceeded against for the said felony according to law: Provided always, that out of the moneys arising from the said allotments respectively, the said Directors, or the major part of them, including the manager entrusted with the distribution of the said tickets as aforesaid, shall have power to discharge all outlays made in furtherance of the objects of this Act by the said Manager with the sanction of the said Directors, and all such incidental charges not hereby otherwise provided, as shall necessarily attend the execution of this Act in such manner as to them shall seem just and reasonable; and after paying and deducting thereout such charges and expences as aforesaid, and the per centage hereafter named, the said Directors shall stand possessed of the said moneys so to be received as hereinafter mentioned, until the election or appointment of other Directors as hereinafter provided; and immediately after the election or appointment of such Directors, the said first named Directors shall transfer and pay over the balance of such moneys to such Directors or to the President of the said Company, to be applied by them for the purposes of this Act as hereinafter provided: And provided further, and it is hereby declared, that the drawers or holders of the fortunate tickets, immediately after the drawing of each of the said lotteries in manner aforesaid, shall be entitled to exchange their tickets respectively, for a scrip or scrips from the said Directors, and the said Directors, or a major part of them, shewing the number of shares which such fortunate tickets respectively represent; and the holders of such scrips shall in all respects and for all purposes be considered and are hereby respectively declared to be a Stockholder or Stockholders in the said Company for the number of shares mentioned in such scrip or scrips: Provided always, that the said drawers of such fortunate tickets shall, before receiving such scrips as aforesaid, pay to the said Manager such a per-centage on the amount of stock to which such drawer shall be entitled, as the said Directors shall think reasonable, not exceeding twelve per cent., for the services, pains and labours of the said Manager in and about the said allotment, and in the furtherance of the object of this Act, and for their costs and expenses in advertising, printing, and otherwise: and the said Manager is hereby authorized and empowered to demand and receive the same: And provided further, that immediately after the election or appointment of other Directors as hereinafter provided, the holders of such scrips respectively shall be entitled

Penalty on
forging or
counterfeiting
tickets.

Proviso.

Proviso.

Proviso.

Proviso.

entitled to receive from the said new Directors, and they are hereby directed and empowered to issue and deliver to such holders of scrips respectively, so many shares or so much scrip as shall be equal to the number of shares mentioned in such certificates respectively.

Company em-
powered to
enter upon
lands.

X. And be it enacted, That it shall and may be lawful for the said Company, their agents and workmen, and all other persons by them authorized, and they are hereby empowered to enter into and upon the lands of the Queen's Most Excellent Majesty, and of any person or persons, bodies or body politic, corporations aggregate or sole, whatsoever, and to survey and take levels of the same, or any part thereof, and to set out and appropriate, for the purposes of this Act, such parts thereof as they are by this Act empowered to take or use, and in and upon such lands or any lands adjoining thereto, to bore, dig, cut, embank and to remove or lay, and also to use, work and manufacture any earth, stone, rubbish, trees, gravel or sand or any other matters or things which may be dug or obtained thereon or otherwise, in the execution of the powers of this Act, and which may be proper or necessary for making, maintaining, altering, repairing or using the said Rail-road and other works by this Act authorized, or which may obstruct the making, maintaining, altering, repairing or using the same respectively, according to the true intent and meaning of this Act; and also for the purposes and according to the provisions and restrictions of this Act, to make and construct such inclined planes, tunnels, embankments, aqueducts, bridges, roads, ways, passages, conduits, drains, piers, arches, cuttings and fences, as the said Company shall think proper, and to make drains or conduits into, through or under any lands adjoining the said Rail-road, and also in and upon the said Rail-road or any lands adjoining or near thereto, to erect and make such toll and other houses, warehouses, yards, stations, engines and other works and conveniences connected with the said Rail-road as the said Company shall think proper, and also from time to time to alter, repair or discontinue the before-mentioned works or any of them, and to substitute others in their stead, and generally to do and execute all other matters and things necessary and convenient for constructing, maintaining, altering or repairing and using the said Rail-road and other works by this Act authorized, they, the said Company, their agents and workmen, doing as little damage as may be in the execution of the several powers to them hereby granted; and the said Company making full satisfaction, in manner hereinafter mentioned, to all persons and corporations interested in any lands which shall be taken, used or injured and for all damages to be by them sustained, in or by the execution of all or any of the powers hereby granted: and this Act shall be sufficient to indemnify the said Company and all other persons for what they or any of them shall do by virtue of the powers hereby granted, subject, however, to such restrictions and provisions as are hereinafter mentioned and contained.

Lands taken
for Rail-road
not to exceed
a certain
breadth.

XI. And be it enacted, That the lands to be taken for the line of the said Rail-road shall not exceed forty yards in breadth, except in those places upon the line of such Rail-road, where a greater breadth shall be judged necessary for carriages to wait, load or unload, or to turn or pass each other, or for raising embankments; for crossing villages or low grounds, for cuttings, or for the erection or establishment of any fixed or permanent machinery, toll-house, ware-house, wharf, or other erections and buildings, or for the protection of the said Rail-road, from the falling of timber growing upon or along the line of the said Rail-road, and not in any place exceeding two hundred yards in breadth, except at the terminus of the said Rail-road, and at each of such termini not exceeding

exceeding three hundred yards square, unless with the previous consent in writing, of the owners or occupiers of any lands, which the said Company shall be desirous of appropriating to the obtaining of greater space: Provided always, that nothing in this Act contained, shall prevent the said Company from purchasing, having, holding, using and enjoying for any estate or interest; but they are hereby authorized from time to time, to purchase, have, hold, take, receive, use, and enjoy, without the line of the said Rail-road, either at the termini, or at any of the stations of the said Rail-road, or along the line of the said Rail-road, any lands, tenements and hereditaments which it shall please Her Majesty to give, grant, sell and convey, or which any person or persons, body or bodies politic, corporations aggregate or sole, shall give, grant, sell or convey unto, and to the use of, or in trust for the said Company, their successors and assigns, so as the aggregate quantity of such land so held, shall not exceed one hundred thousand acres, and it shall and may be lawful for the said Company, from time to time, by deed of bargain, and sale or otherwise, to grant, bargain, sell or convey any of such lands: Provided always, that it shall not be lawful for the said Company to retain in their possession, use and enjoyment, or to purchase, have, hold, take, receive, use or enjoy, any such lands, without the line of the said Rail-road, otherwise than for the better and more effectual repairing, maintaining and using the said Rail-road, and other works hereby authorized after the expiration of ten years from and after the completion of the said Rail-road; And provided also, that nothing in this Act contained, shall prevent the said Company, under the seal of the said Company, from granting, conveying and assuring, but they are hereby authorized to grant, convey and assure any of such lands, without the line of the said Rail-road, and not necessary to be used therewith, or with the other works hereby authorized, unto and to the use of the several and respective Members of the said Company, in proportion to the shares respectively held by them, in such manner as shall be regulated at a General Meeting of the said Company, convened for the purpose of apportioning such lands, of the time and place of holding which meeting, at least three months' notice shall be published in one or more of the newspapers published in the several Districts through which the said Rail-road shall pass, and shall also be transmitted by post, by the Secretary of the said Company, to the several and respective members of, and proprietors of shares in the said Company, at least four months before the day appointed for holding any such meeting.

XII. And be it enacted, That for the purposes of this Act, the said Company shall and may by some sworn Land Surveyor in the Province, and by an Engineer by them to be appointed, cause to be taken and made surveys and levels of the said lands through which the said intended Rail-road is to be carried, together with a map or plan of such intended Rail-road and the course and direction thereof, and of the said lands through which the same is to pass, and also a Book of Reference of the said Rail-road, in which shall be set forth a description of the said several lands, and the names of the owners, occupiers and proprietors thereof, so far as the same can be mentioned, and in which shall be contained every thing that is necessary for the right understanding of such map or plan, copies of which said map or plan and book of reference, shall on the completion of such survey, map, and book of reference, be deposited by the said Company in the offices of the respective Clerks of the Peace for the several Districts through which the said Rail-road or any part thereof shall pass, and also in the office of the Secretary of the Province; and all persons shall have liberty to resort to such copies so to be deposited as aforesaid, and to make extracts from or copies thereof as occasion shall require, paying to the said Secretary of this Province or to the said
 respective

Proviso: no lands to remain in their possession, without line of Rail-road.

Proviso: no lands to remain in their possession, without line of Rail-road, unless for the better maintaining of the Road.

Proviso: Company may grant, &c. lands without line of Rail-road, and not necessary to be used.

Company to take surveys and levels of the lands through which the Road is to be carried and make a map or plan thereof.

Book of reference to be made and deposited with plan.

Copies of plan, &c. certified by Clerks of the Peace or Secretary of Province, good evidence in Courts of Law.

respective Clerks of the Peace at the rate of six pence current money of this Province for every one hundred words, and the said copies of the said map or plan and book of reference so deposited, or a true copy or copies thereof, certified by the Secretary of the Province, or by one of the said Clerks of the Peace for the said respective Districts, shall severally be, and they are hereby declared to be good evidence in the Courts of Law and elsewhere.

Company may sink shafts, &c., wherever necessary.

XIII. And be it enacted, That in case it shall be found necessary to form shafts, pits, eyes or openings to or from any tunnel to be made for the purposes of this Act, it shall be lawful for the said Company to sink and construct such shafts, pits, eyes or openings in such places as the said Company shall think necessary.

Height and breadth of bridges over any highways.

XIV. And be it enacted, That when the said Rail-road shall be carried over or across any highway, otherwise on a level, the same shall be so carried over or across such highway at the expense of the said Company by means of a bridge, and the space of the arch of any such bridge shall be framed, and at all times be kept and continued by the said Company of such breadth as to have and leave a clear and open space under every such arch of not less than fifteen feet, and a height from the surface of such public highway to the centre of such arch of not less than sixteen feet, and the descent under any such bridge shall not exceed one foot in thirteen, and that in all places where it shall be necessary to erect, build, or make any bridge or bridges for carrying any public highway or carriage road over the said Rail-road, the ascent of every such bridge for the purpose of every such road shall not be more than a foot in thirteen feet, and a good and sufficient fence shall be made at the expense of the said Company on each side of every such bridge, not less than four feet above the surface of such bridge; and that in all places where the said Rail-road shall cross any public highway on a level, the ledge or flange of the said Rail-road for the purpose of guiding the wheels of the carriages, or the rail itself, if there be no ledge or flange, shall not rise above nor sink below the level of such road more than one inch; and that in all such places the said Company shall erect and at all times maintain a good and sufficient gate on each side of such Rail-road, where the said public highway shall communicate therewith, which gates shall be constantly kept shut except at such time as they shall be required to be opened for the use of any person or persons using such public highway and desiring to cross the said Rail-road, and every person so using the said public highway and requiring the said gates to be opened for the purpose aforesaid, shall, and is hereby required to cause the said gates and each of them to be shut so soon as he shall have used the same respectively for the purpose aforesaid, under the penalty of five pounds currency in default thereof for every such offence, to be recovered in like manner as any other penalty under this Act may be recovered: Provided always, and be it enacted, That the said Company shall at each and every place where the Rail-road shall cross any highway on a level, erect and keep up a sign board stretching across the highway at such height as to leave sixteen feet from the highway to the lower edge of the sign board, and having the words "*Rail-way Crossing*" painted on each side of such sign board, in letters not less than six inches in length, and for each and every neglect to comply with the requirements of this section, the said Company shall incur a penalty not exceeding fifty pounds.

When Rail-road crosses a highway, the rail, &c., to be within one inch of the surface.

Precautions to be observed when the Rail-way crosses a highway on a level.

After any lands have been set out,

XV. And be it enacted, That after any lands or tenements shall be set out and ascertained in manner aforesaid for making and completing the said Rail-road, and other

other works and other purposes and conveniences hereby authorized, it shall and may be lawful for all bodies politic, corporations aggregate or sole, executors or administrators, mortgagees and all other trustees or persons whomsoever, not only for and on behalf of themselves, their heirs and successors, but also for and on behalf of those whom they represent, whether infants, issue unborn, lunatics, idiots, *femes-covert*, mortgagors, *cestuique trustent*, or other person or persons who are or shall be seized, possessed of or interested in any lands or tenements which shall be set out and ascertained as aforesaid, or any part thereof, to contract for and to sell and convey unto the said Company, their successors and assigns, all or any part of such lands or tenements, which shall from time to time be set out and ascertained as aforesaid, and that all contracts, agreements, sales, conveyances and assurances so to be made, shall be valid and effectual in law to all intents and purposes whatsoever, any law, statute, usage or custom to the contrary thereof in any wise notwithstanding; and all bodies politic, corporations aggregate or sole, and all persons whatsoever so conveying as aforesaid, are hereby indemnified for what he, she or they, or any of them shall respectively do by virtue of or in pursuance of this Act; and all such contracts, agreements, sales, conveyances and assurances, shall and may be registered by the said Company, in the Registry Offices of the respective Counties wherein such lands shall be respectively situated, upon a memorial thereof duly executed by any of the grantors named therein respectively, or by the Secretary of the said Company, in the name of, and on behalf of, and under the seal of the said Company, in like manner as any other conveyances of land may by law be registered.

all bodies corporate, &c., may sell their property therein to the Company.

XVI. And be it enacted, That it shall be lawful for the said Company to apply to the several owners and occupiers of the lands and tenements and hereditaments through which the said Rail-road is intended to be carried, and to agree with such owners or occupiers respectively, touching the compensation to be paid to them by the said Company, for the purpose of the said Rail-road and other works, and for the respective damages of such owners and occupiers; and in case of disagreement between the said Company and the said owners or occupiers or any of them, or in case of the said Company being unable to ascertain who is or are the owner or owners of such lands, or in case of the absence of any such owners, or in case of any of such owners or persons interested in any such lands or tenements being *femes-covert*, infants, idiots, lunatics, of unsound mind, or for any reason incapable of contracting with the said Company, or of conveying and assuring such lands to the said Company, or of releasing the said Company from all claims for such damages, then and in any of such cases it shall and may be lawful for the said Company to deposit such sums as they shall be willing to give for such lands and damages in the Court of Chancery, together with six months interest thereon, in such manner as the said Court shall upon the motion of the said Company direct for the benefit of all persons, bodies corporate or communities interested in any of such lands, tenements, or hereditaments that shall or may be required by the said Company, and shall by the said Company be taken or affected or prejudiced by the execution of any of the powers hereby granted; and immediately upon the payment or tender of such sum or sums as shall be contracted or agreed upon between the said Company and the several parties interested in any of such lands and upon payment of such sum or sums in respect of any such lands into the Court of Chancery as aforesaid, then such lands, tenements, hereditaments and premises respectively, may be immediately entered upon and taken possession of by the said Company, and shall be and become vested in the said Company and applied to the purpose

Company may carry Road through lands, and agree with the owners.

In case of Proprietors of lands being *femes-covert* &c., price of lands may be deposited in Court of Chancery.

purpose of making, maintaining and repairing the said Rail-road and other works and conveniences thereto appertaining.

Proceedings to take place on such payment being made to the Court of Chancery.

XVII. And be it enacted, That upon such payment being made into the Court of Chancery as aforesaid, it shall be the duty of the said Company to cause a notice to be published for three months in some newspaper published in the District in which such respective pieces of land lie, or in case of there being no newspapers published in any such District, then such notice shall be published in some newspaper published in one of the Districts adjoining the District in which such land shall lie; and such notice shall state the amount paid into the said Court of Chancery and the particular piece or parcel of land in respect of which such amount is so paid, and it shall and may be lawful for the owners or occupiers of such respective lands, tenements or hereditaments, or any of the persons interested therein, to summon the said Company at any time within twelve months from the first publication of such notice, to appear before the Chairman of the General Quarter Sessions of the Peace at the then next Court of General Quarter Sessions, to be held in the District where such respective pieces or parcels of land shall lie, and the said complainant and the said Company may thereupon severally and respectively nominate and appoint any one Justice of the Peace in and for such District, who together with such Chairman, may enter upon and view the place or places in question, and shall take down in writing the evidence upon oath of such persons as may be brought before them to give evidence touching the matters in controversy, which oaths the Chairman is hereby authorized and required to administer, and the said Chairman and two Justices so appointed as aforesaid, are hereby authorized to assess and ascertain the sum or sums of money to be paid by the said Company for the purchase of the said respective pieces of land and damages, and shall, in estimating the value of such respective pieces of land, and the amount of such damages, take into consideration any damage or inconvenience as well as any advantage or convenience which may accrue or arise to the respective owners and occupiers of or persons interested in such respective pieces of land, and the decision of such Chairman and Justices, or a majority of them, shall be final and conclusive between all parties whomsoever, and in the event of the amount so assessed or ascertained as the purchase money and damage in respect of such respective pieces or parcels of land being the same as or less than the amount paid into the said Court of Chancery in respect thereof, then the costs of the said Company incidental to such enquiry shall be deducted and paid out of the said sum so paid into the said Court of Chancery: but in case the amount so assessed or ascertained shall be greater than the sum so paid into the Court in respect of such respective pieces of land, it shall and may be lawful for the said Chairman to issue his Warrant directed to the Sheriff of any of the Districts through which such Rail-road shall pass, requiring him to make the excess of such amount so assessed over and above the sum so paid into the said Court of Chancery, together with the costs attending the said enquiry, out of the goods, chattels and effects of the said Company, and the said Chairman is hereby authorized to tax the costs of both parties attending and incidental to the said enquiry: Provided always, that no greater fees or disbursements shall be allowed than are allowed upon proceedings in the said Court of General Quarter Sessions: And provided also, that the said Chairman shall be entitled to tax and allow to himself, and each of the said Justices, the sum of thirty shillings for every day during which they shall be engaged in such enquiry, and the evidence upon such enquiry, together with the judgment or decision given thereon, shall be filed of record in the said Court of General Quarter Sessions of the Peace, and the decision of the Chairman and Justices,

or

Proviso.

or of the majority of them, shall be certified by the said Chairman under his hand and seal to the said Court of Chancery, and filed of record in the said Court of Chancery.

XVIII. And be it enacted, That the said Company shall, and they are hereby required at their own expense, after any lands shall be taken and used for the purposes of the said Rail-road and other works, to separate the same and to keep the same constantly separated from the lands adjoining to the said Rail-road and other works, with good and sufficient posts, rails, hedges, ditches, mounds or other fences, in case the owners of such lands adjoining to such Rail-road or other works, or any of them respectively, shall at any time desire the same to be fenced off, or in case the said Company shall think proper to fence off the same, and in case the lands on either side of the said Rail-road shall be owned or occupied by the same person, then to enable such person, his or her servants and workmen to cross the said Rail-road, the said Company shall make and maintain all necessary gates and stiles in all such fences to be made as aforesaid, all such gates being made to open towards such lands and not towards such Rail-road, and also all such bridges, arches or culverts as shall be necessary for the more commodious communication between the said lands on either side of the said Rail-road; Provided always, that the power to cause such gates, stiles, bridges, arches and culverts to be erected at the expense of the said Company, shall cease after the expiration of two years from and after the completion of the said Rail-road; And provided also, and be it enacted, That in every case in which the owner of any lands or other person or persons by this Act authorized and capacitated to convey, shall in their arrangements with the said Company have received or agreed to receive compensation for gates, stiles, bridges, arches or culverts, instead of the same being erected or found by the said Company for the purpose of facilitating the passage to or from either side of the land severed or divided by the said Rail-road, it shall not be lawful for any such owner, or those claiming under him, to pass, and they shall ever be prevented from passing or crossing the said Rail-road from one part to the other part of their lands so severed and divided otherwise than by a gate, stile, bridge, arch or culverts to be erected and maintained at the charge of such owners under the inspection and direction of and according to plans and specifications to be furnished and approved by the Engineer of the said Company.

Company to keep Rail-road separate from lands adjoining thereto by ditches, fences, &c.

Proviso.

XIX. And be it enacted, That if any person shall, by any means, or in any manner or way whatsoever, obstruct or interrupt the free use of the said Rail-road, or the carriages, engines or other works incidental or relative thereto or connected therewith, such person shall, for every such offence, incur a forfeiture or penalty of not less than one pound five shillings, and not exceeding ten pounds, one half of which penalty or forfeiture (to be recovered at the Court of General Quarter Sessions of the Peace of the District wherein such offence shall be committed), shall go to the prosecutor or informer, and the other half to the said Company.

Penalty on persons obstructing Rail-road.

XX. And be it enacted, That all suits for indemnity for any damage or injury sustained by reason of the powers and authority given by this Act, shall be brought within six calendar months next after the time of such supposed loss sustained, or in case there should be a continuation of damage, then within six calendar months next after the doing or committing such damage shall cease, and not afterwards, and the defendant or defendants shall and may plead the general issue, and give this Act and the special matter in evidence, at any trial to be had thereupon, and may aver that the same was done in pursuance and by authority of this Act.

All applications for indemnity for damage done under this Act to be made within a certain time.

General issue.

XXI.

Punishment of persons breaking down, obstructing or damaging the Rail-road or works of the Company.

XXI. And be it enacted, That if any person or persons shall wilfully and maliciously, and to the prejudice of the said Rail-road authorized to be made by this Act, break, throw down, damage or destroy the same or any part thereof, or any of the houses, warehouses, toll-houses, watch-houses, weigh-houses, weigh-beams, cranes, carriages, vessels, engines, inclined planes, machines, or other works or devices incidental and relative thereto or connected therewith, or do any other wilful hurt or mischief, or wilfully or maliciously obstruct or interrupt the free use of the said Rail-road, vessels or works, or shall obstruct, hinder or prevent the carrying on, completing, supporting and maintaining the said intended Rail-road; vessels or works, such person or persons shall be adjudged guilty of a misdemeanor, and the Court by and before whom such person or persons shall be tried and convicted, shall have power and authority to cause such person or persons to be punished in like manner as persons convicted of a misdemeanor are directed to be punished by the laws in force in this Province, or in mitigation thereof, to award such sentence as the law directs in cases of simple larceny, as to the Court shall seem fitting,

Company may borrow money,

XXII. And be it enacted, That the said Company may from time to time lawfully borrow, either in this Province or elsewhere, such sum or sums of money not exceeding at any time the sum of two hundred and fifty thousand pounds currency, as they may find it expedient, and at such rate of interest, not exceeding six per centum per annum, as they may think proper, and may make the bonds, debentures or other securities they shall grant for the sums so borrowed, payable either in currency or in sterling, and at such place or places within or without this Province as they may deem advisable, and may mortgage or pledge the lands, tolls, revenues or other property of the said Company for the due payment of the said sums and the interest thereon.

and grant mortgage.

Votes of proprietors according to the number of shares.

XXIII. And be it enacted, That the number of votes to which each proprietor of shares in the said undertaking shall be entitled on every occasion when, in conformity to the provisions of this Act, the votes of the members of the said Company are to be given, shall be in proportion to the number of shares held by him, that is to say : one vote for each share less than fifteen ; Provided always, that no proprietor as aforesaid shall have more than fifteen votes, and all proprietors of shares, whether resident in this Province, may vote by proxy, if he, she or they shall see fit, provided that such proxy do produce from his constituent or constituents a notice in writing in the words or to the effect following, that is to say :

Proviso.

Form of appointment of proxy.

" I, _____, of _____,
 " one of the proprietors of the Toronto, Simcoe and Huron Rail-road, do hereby
 " nominate, constitute and appoint _____, of _____,
 " _____ to be my proxy in my name, and in my absence to
 " vote or give my assent or dissent to any business, matter or thing relating to the said
 " undertaking that shall be mentioned or proposed at any meeting of the Proprietors of
 " the said undertaking, or any of them, in such manner as he, the said
 " _____ shall think fit, according to his opinion and judgment, for the
 " benefit of the said undertaking or any thing appertaining thereto. In witness whereof,
 " I have hereunto set my hand and seal, the _____ day of _____
 " in the year one thousand eight hundred _____."

And

And such vote or votes, by proxy, shall be as valid as if such principals had voted in person; and whatever question, election of proper officers, matters or things shall be proposed, discussed or considered in any public meeting of the proprietors to be held by virtue of this Act, shall be determined by the majority of votes and proxies then present and so given as aforesaid, and all decisions and acts of any such majority shall bind the said Company, and be deemed the decision and acts of the said Company; Provided always, and be it enacted, that no proprietor who shall not be a natural born subject of Her Majesty, or a subject of Her Majesty naturalized under an Act of the British Parliament or an Act of the Parliament of this Province, shall be elected President or Treasurer of the said Company.

None but British subjects to be President or Treasurer.

XXIV. And be it enacted, That no Shareholders in the said Company shall be in any manner whatsoever liable or charged for any debt or demand due by the said Company beyond the payment or the extent of his, her or their share in the capital of the said Company not paid up.

Shareholders not liable for debts of Corporation.

XXV. And be it enacted, That when and as soon as the shares in the said Stock shall be disposed of by the distribution of the said allotment or allotments, it shall be lawful for any ten of the holders of shares in the said Company, holding among them at least two hundred shares, to call a meeting at the City of Toronto of the holders of such shares for the purpose of electing Directors, other than those hereinbefore named and appointed; Provided always, that in any case public notice of the time and place of holding such meeting shall be given during one month in two of the newspapers published in the said City of Toronto; and at such general meeting the Proprietors assembled with such proxies as shall be present, shall choose eleven persons, being each a proprietor of not less than twenty shares in the said undertaking, to be Directors of the said Company in such manner as is hereinafter directed, and shall also proceed to pass such Rules and Regulations and By-laws as shall seem to them fit, provided they be not inconsistent with this Act.

First General Meeting of proprietors to be held in Toronto.

To elect a Board of Directors.

XXVI. And be it enacted, That the Directors so elected, (or those appointed in their stead in case of vacancy,) shall remain in office until the first Monday in the month of June next following; after the distribution of the said allotments, and that on the said first Monday in June, and on the first Monday in June in each year thereafter, or on such other day as shall be appointed by any By-law, an annual general meeting of the said Proprietors shall be held at the office of the Company, for the time being, to choose Directors in the room of those whose office may at that time become vacant, and generally to transact the business of the Company; but if at any time it shall appear to any ten or more of such Proprietors holding together two hundred shares at least, that for more effectually putting this Act in execution, a special general meeting of Proprietors is necessary to be held, it shall be lawful for such ten or more of them to cause fifteen days notice at least to be given thereof, in two public newspapers as aforesaid, or in such manner as the Company shall by any By-law direct or appoint, specifying in the said notice the time and place and the reason and intention of such special meeting respectively; and the proprietors are hereby authorized to meet pursuant to such notices, and proceed to the execution of the powers by this Act given them with respect to the matters so specified only; and all such acts of the Proprietors or the majority of them at such special meetings assembled, such majority not having either as principal or proxies less than two hundred shares, shall be as valid to all intents and purposes as if the same

In the month of June in each year a Board of Directors to be elected.

Special Meeting of proprietors may be called.

Quorum at such General Meeting.

were

Proviso: vacancies among the Directors may be filled.

were done at annual meetings ; Provided always, that it shall and may be lawful for the said Directors, in case of the death or absence, resignation or removal of any person elected a Director, to manage the affairs of the said Company, in manner aforesaid to appoint another or others in the room or stead of those of the Directors who may die or be absent, resign or be removed as aforesaid ; any thing in this Act to the contrary notwithstanding ; but if such appointment be not made, such death, absence or resignation shall not invalidate the acts of the remaining Directors.

Three Directors shall annually retire, but may be re-elected.

Proviso.

XXVII. And be it enacted, That at each of the said annual meetings of the Proprietors, three of the said eleven Directors shall retire in rotation, the order of retirement of the said first elected eleven Directors being decided by lot ; but the Directors then or at any subsequent time retiring shall be eligible for re-election ; Provided always, that no such retirement shall have effect unless the Proprietors shall at such annual meeting proceed to fill up the vacations thus occurring in the Direction.

Directors to elect a President,

and Vice-President.

XXVIII. And be it enacted, That the Directors shall at their first (or at some other) Meeting after the day appointed for the Annual General Meeting in each year, elect one of their Members to be the President of the said Company, who shall always (when present) be the Chairman of and preside at all Meetings of the Directors, and shall hold his office until he shall cease to be a Director, or until another President shall be elected in his stead, and the said Directors may in like manner elect a Vice-President, who shall act as Chairman in the absence of the President.

Five Directors to be a quorum for business.

Proviso.

Casting vote of Chairman.

Proviso: Directors subject to the control of the Meeting.

Proviso: Acts of a majority of quorum to be valid.

XXIX. And be it enacted, That any Meeting of the said Directors, at which not less than five Directors shall be present, shall be a *quorum*, and shall be competent to use and exercise all and any of the powers hereby vested in the said Directors ; Provided always, that no one Director, though he may be a Proprietor of many shares, shall have more than one vote at any meeting of the Directors, except the President and Vice-President when acting as Chairman, or any temporary Chairman who, in case of the absence of the President and Vice-President, may be chosen by the Directors present, either of whom when presiding at a Meeting of the Directors shall, in case of a division of equal numbers, have the casting vote, although he may have given one vote before ; And provided also, that such Directors shall from time to time be subject to the examination and control of the said Annual and Special Meetings of the said Proprietors as aforesaid, and shall pay due obedience to all By-laws of the said Company and to such orders and directions in and about the premises as they shall from time to time receive from the said Proprietors at such Annual or Special Meetings ; such orders and directions not being contrary to the special directions or provisions in this Act contained ; And provided also, that the Act of any majority of a *quorum* of the Directors present at any Meetings regularly held, shall be deemed the act of the Directors.

No Officer of Company or contractor to be Director.

XXX. Provided always, and be it enacted, That no person holding any office, place or employment, or being concerned or interested in any contract or contracts under the said Company, shall, after the distribution of the said allotments, be capable of being chosen a Director or of holding the office of Director.

Annual Meeting to appoint Auditors.

XXXI. And be it enacted, That every such Annual Meeting shall have power to appoint, not exceeding three Auditors, to audit all accounts of money laid out and disbursed

'disbursed on account of the said undertaking, by the Treasurer, Receiver or Receivers, and other officer or officers to be by the said Directors appointed, or by any other person or persons whatsoever, and employed by or concerned for or under them in and about the said undertaking, and to what end the said Auditors shall have power to adjourn themselves over from time to time, and from place to place, as shall be thought convenient by them; and the said Directors, chosen under the authority of this Act, shall have power from time to time to make such call or calls of money from the Proprietors of the said Rail-road and other works, to defray the expense of or to carry on the same as they from time to time shall find wanting and necessary for these purposes; Provided, however, that no call do exceed the sum of ten shillings current money of this Province for every share of five pounds; And provided also, that no call be made but at the distance of one calendar month from each other, and such Directors shall have full power and authority to direct and manage all and every the affairs of the said Company, as well in contracting for and purchasing lands, rights and materials for the use of the said Company, as in employing, ordering and directing the work and workmen, and in placing and removing under officers, clerks, servants and agents, and in making all contracts and bargains touching the said undertaking, and to affix or authorize any person to affix the Common Seal of the Company to any act, deed, By-laws, notice or other document whatsoever, and any such act, deed, By-laws, notice or other document, bearing the Common Seal of the Company and signed by the President, Vice-President or any Director or Directors, shall be deemed the act of the Directors of the said Company, nor shall the authority of the signer of any document purporting to be signed and sealed to sign and affix the said seal thereto be liable to be called in question by any party except the Company, and the Directors shall have such other and further powers as, being vested in the Company by this Act, shall be conferred upon the said Directors by the By-laws of the Company.

Power of Directors to make calls.

Proviso.

How calls to be made.

As to powers of Directors.

XXXII. And be it enacted, That the owner or owners of one or more shares in the said undertaking, shall pay his, her or their shares and proportion of the moneys to be called for as aforesaid to such person or persons, and at such time and place as the said Directors shall from time to time appoint and direct, of which three weeks notice a least shall be given in two newspapers as aforesaid, or in such other manner as the said Proprietors or their successors shall by any By-law direct or appoint; and in case such person or persons shall neglect to pay his, her or their rateable calls as aforesaid for the space of two calendar months after the time appointed for the payment thereof as aforesaid, then he, she or they shall forfeit his, her or their respective share or shares in the said undertaking, and all the profit and benefit thereof, all which forfeiture shall go to the rest of the Proprietors of the said undertaking, their successors and assigns, for the benefit of the said Proprietors, in proportion to their respective interests, and in every case such calls shall be payable with interest from the time the same shall be so appointed to be paid until the payment thereof.

Shareholders bound to pay calls.

Forfeiture for not paying calls.

XXXIII. Provided always, and be it enacted, That no advantage shall be taken of the forfeiture of any share or shares of the said undertaking, unless the same shall be declared to be forfeited at some Annual or Special Meeting of the said Company, assembled after such forfeiture shall be incurred, and every such forfeiture shall be an indemnification to and for every Proprietor so forfeiting, against all action and actions, suit or suits, or prosecutions whatsoever to be commenced or prosecuted for the breach of contract or other agreement between such Proprietor and the other Proprietors with regard to carrying on the said Rail-road or undertaking.

No advantage taken of any forfeiture unless declared at a General Meeting.

XXXIV.

Proprietors may remove any person chosen upon such Board of Directors, and may elect others in case of death, &c.

and make By-laws.

Penalties under By-laws limited.

By-laws to be in writing and published.

Certified copies to be evidence.

Proprietors may dispose of their shares and how.

Form of transfer of shares.

XXXIV. And be it enacted, That the said Company shall always have power and authority at any General Meeting assembled as aforesaid, to remove any person or persons chosen upon such Board of Directors as aforesaid, and to elect others to be Directors in the room of those who shall die, resign or be removed, and to remove any other officer or officers under them, to revoke, alter, amend or change any of the By-laws or Orders prescribed with regard to their proceedings amongst themselves (the method of calling General Meetings, and their time and place of assembling, and manner of voting and appointing Directors only excepted,) and shall have power to make such new Rules, By-laws and Orders for the good government of the said Company, and their servants, agents or workmen, for the good and orderly making and using the said Rail-road, and all other works connected therewith or belonging thereto, as hereby authorized, and for the well-governing of all persons whatever travelling upon or using the said Rail-road and other works or transporting any goods, wares, merchandize or other commodities thereon, and by such By-laws to impose and inflict such fines or forfeitures upon the persons guilty of a breach of such By-laws or Orders, as to such General Meeting shall seem meet, not exceeding the sum of Five Pounds, current money of this Province, for every offence, such fines or forfeitures to be levied and recovered by such ways and means as are hereinafter mentioned, which said By-laws and Orders shall be put into writing under the Common Seal of the said Company, and shall be kept in the office of the Company, and a printed or written copy of so much of them as relate to or affect any party other than the members or servants of the Company, shall be affixed openly in all and every of the places where tolls are to be gathered, and in like manner as often as any change or alteration shall be made to the same, and the said By-laws and Orders so made and published as aforesaid shall be binding upon and observed by all parties, and shall be sufficient in any Court of Law or Equity to justify all persons who shall act under the same, and any copy of the said By-laws, or any of them certified as correct by the President or some person authorized by the Directors to give such certificate, and bearing the Common Seal of the said Company, shall be deemed authentic, and shall be received as evidence of such By-laws in any Court without further proof.

XXXV. And be it enacted, That it shall and may be lawful to and for the several Proprietors of the said Rail-road or undertaking, to sell or dispose of his, her or their share or shares therein, subject to the rules and conditions herein mentioned, and every purchaser shall have a duplicate of the deed of bargain and sale and conveyance made unto him or her, and one part of such deed, duly executed by seller and purchaser, shall be delivered to the said Directors or their Clerk for the time being, to be filed and kept for the use of the said Company, and an entry thereof shall be made in a book or books to be kept by the said Clerk for that purpose, for which no more than one shilling and three pence shall be paid, and the said Clerk is hereby required to make such entry accordingly, and until such duplicate of such deed shall be so delivered to the said Directors or their Clerk, and filed and entered as above directed, such purchaser or purchasers shall have no part or share of the profits of the said undertaking, nor any interest for the said share or shares paid unto him, her or them, nor any vote as a proprietor or purchaser.

XXXVI. And be it enacted, That the sale of the said shares shall be in the form following, varying the names and descriptions of the contracting parties as the case may require :

“ T,

“ I, A. B., in consideration of the sum of _____ paid by
 “ C. D., of _____ do hereby bargain, sell and transfer to
 “ the said C. D. _____ share (or shares) of the stock of the Toronto,
 “ Simcoe and Huron Rail-road Company; to hold to him the said C. D., his executors,
 “ administrators and assigns, subject to the same rules and orders, on the same conditions
 “ that I held the same immediately before the execution hereof; and I, the said C. D.,
 “ do hereby agree to accept of the said _____ share (or shares) subject
 “ to the same rules, orders and conditions.

“ Witness our hands and seals, this _____ day of
 “ in the year one thousand eight _____.”

Provided always, that no such transfer of any share shall be valid until all calls or instalments then due thereon shall have been paid up. Proviso.

XXXVII. And be it enacted, That it shall and may be lawful to and for the said Directors, and they are hereby authorized from time to time, to nominate and appoint a Treasurer or Treasurers, and a Clerk or Clerks to the said Company, taking such security for the due execution of their respective offices as the Directors shall think proper, and such Clerk shall, in a proper book or books, enter and keep a true and perfect account of the names and places of abode of the several Proprietors of the said Rail-road or other works, and of the several persons who shall, from time to time, become owners and proprietors of or entitled to any share or shares therein, and of the other acts, proceedings and transactions of the said Company, and of the Directors for the time being, by virtue of and under the authority of this Act. Directors to appoint a Treasurer and Clerks.
Deputy of the Clerk.

XXXVIII. And be it enacted, That it shall and may be lawful to and for the said Company, from time to time, and at all times hereafter, to ask, demand, take and recover to and for their own proper use and behoof, for all goods wares, merchandize and commodities of whatever description, transported upon the said Rail-road, such Tolls as they, with the approbation of the Governor, or Person administering the Government for the time being, may deem expedient, which said Tolls shall, from time to time, be fixed and regulated by By-laws of the Company, or by the Directors, if thereunto authorized by the said By-laws, and shall be paid to such person or persons, and at such place or places near to the said Rail-road, in such manner and under such regulations as the said Company or the said Directors shall direct and appoint, and in case of denial or neglect of payment of any such rates or dues or any part thereof on demand, to the person or persons appointed to receive the same as aforesaid, the said Company may sue for and recover the same in any Court having competent jurisdiction, and the person or persons to whom the said rates or dues ought to be paid, may, and he is and they are hereby empowered to seize and detain such goods, wares, merchandize or other commodities for or in respect whereof such rates or dues ought to be paid, and detain the same until payment thereof, and in the meantime the said goods, wares, merchandize or other commodities shall be at the risk of the owner or owners thereof, and the said Company or the said Directors shall have full power, from time to time, at any general meeting, with the like approbation aforesaid, to lower or reduce all or any of the said tolls, and again to raise the same as often as it shall be deemed necessary for the interest of the said undertaking: Provided always, that the said tolls shall be, at all times, charged equally to all persons after the same rate Proprietors may establish Tolls for all goods, &c., passing on the Rail-road.
How Tolls may be recovered if not paid.
Seizure of goods, &c.
Tolls may be lowered and again raised.
Proviso against monopoly.

rate in respect of all passengers, and of all goods or carriages of the same description, and conveyed or propelled by a like carriage or engine passing over the same portion of the line of Rail-road under the same circumstances, and no reduction or advance in any such tolls shall be made directly or indirectly in favor of or against any particular Company, person or party travelling upon or using the Rail-road, or so as collusively or unfairly to create a monopoly either in the hands of the said Company or of any other Company, person or party.

Accounts of profit to be annually made up and balanced.

XXXIX. And in order to ascertain the amount of the clear profits of the said undertaking—Be it enacted, That the said Company or the Directors of the said Company shall and they are hereby required to cause a true, exact and particular account to be kept and annually made up and balanced on the thirty-first day of December in each year, of the money collected and received by the said Company or by the Directors or Treasurer of the said Company, or otherwise, for the use of the said Company by virtue of this Act, and of the charges and expenses attending the erecting, making, supporting, maintaining and carrying on their works, and of all other receipts and expenditures of the said Company or the said Directors: And at the General Meetings of the proprietors of the said undertaking to be from time to time holden as aforesaid, a dividend shall be made out of the clear profits of the said undertaking, unless such meetings shall declare otherwise, and such dividend shall be at and after the rate of so much per share upon the several shares held by the proprietors in the Joint Stock of the said Company as such meeting or meetings shall think fit to appoint or determine; Provided always, that no dividend shall be made whereby the Capital of the said Company shall be in any degree reduced or impaired, nor shall any dividend be paid in respect of any share after a day appointed for payment of any call for money in respect thereof until such call shall have been paid.

Dividends to be made from time to time at General Meetings.

Proviso: Capital not to be impaired.

Fractions in miles and in weights of goods in ascertaining rates how regulated.

XL. Provided always, and be it enacted, That in all cases where there shall be a fraction in the distance which goods, wares, merchandize or other commodities or passengers shall be conveyed or transported on the said Rail-road, such fraction shall, in ascertaining the said rates, be deemed and considered as a whole mile, and that in all cases where there shall be the fraction of a ton, in the weight of any such goods, wares, merchandize, and other commodities, a proportion of the said rates shall be demanded and taken by the said Company of Proprietors to the number of quarters of a ton contained therein, and in all cases where there shall be a fraction of a quarter of a ton, such fraction shall be deemed and considered as a whole quarter of a ton.

Proprietors may at General Meeting make By-laws for fixing price for carriage of parcels by the Rail-road.

Table of Tolls to be publicly affixed.

XLI. Provided always, and be it enacted, That it shall and may be lawful to and for the Directors of the said Company, from time to time, with the like approbation aforesaid, to make such regulations for ascertaining and fixing the price, or sum or sums of money, to be charged or taken for the carriage of any parcel, not exceeding one hundred and twenty pounds weight as aforesaid, upon the said Rail-road, or any part thereof, as to them shall seem fit and reasonable, and that the said Company shall from time to time, print and stick up, or cause to be printed and stuck up in their office, and in all and every of the places where the Tolls are to be collected, in some conspicuous place there, a printed board or paper showing all the Tolls payable under this Act, and particularising the sum or sums of money to be charged or taken for the carriage of such parcels not exceeding one hundred and twenty pounds in weight as aforesaid.

XLII.

XLII. Provided always and be it enacted, That the said Company shall at all times, when thereunto required by Her Majesty's Deputy Postmaster General, the Commander of the Forces, or any person having the Superintendence or Command of any Police Force, carry Her Majesty's Mails, Her Majesty's Naval or Military Forces or Militia, and all artillery, ammunition, provisions or other stores for their use, and all policemen, constables and others, travelling on Her Majesty's service, on the said Rail-way, on such terms and conditions, and under such regulations as the Governor or person administering the Government shall, in Council, appoint and declare: Provided always, that any further enactments which the Legislature of this Province may hereafter deem it expedient to make, with regard to the carriage of the said Mails or Her Majesty's Forces, and other persons and articles as aforesaid, or the rates to be paid for carrying the same, or in any way respecting the use of any Electric Telegraph or other service to be rendered by the Company to the Government, shall not be deemed an infringement of the privileges intended to be conferred by this Act.

Provisions as to the carriage of Her Majesty's Mail, &c.

Proviso: Legislature may make further provisions.

XLIII. And be it enacted, That as soon as conveniently may be after the said Rail-road shall be completed, the said Company shall cause the same to be measured, and stones or posts, with proper inscriptions on the sides thereof denoting the distance, to be erected and forever after maintained at a distance of every mile from each other.

Company to have Rail-road measured and miles marked.

XLIV. And be it enacted, That the said Company shall and are hereby required and directed to take sufficient security by one or more bond or bonds, in a sufficient penalty or penalties from their Treasurer, Receiver and Collector for the time being, of the moneys to be raised by virtue of this Act, for the faithful execution by such Treasurer, Receiver and Collector of his and their office and offices respectively.

Treasurer, Receiver and Collector to give security.

XLV. And be it enacted, That all fines and forfeitures imposed by this Act, which shall be lawfully imposed by any By-law to be made in pursuance thereof, (of which By-law when produced, all Justices are hereby required to take notice,) the levying and recovering of which fines and forfeitures are not particularly herein directed, shall upon proof of the offence before any one or more Justice or Justices of the peace, for any of the Districts through which the said Rail-road shall pass, either by the confession of the party or parties, or by the oath or affirmation of any one credible witness, (which oath or affirmation such Justice or Justices are hereby empowered and required to administer without fee or reward,) be levied by distress and sale of the offender's goods and chattels by Warrant under the hand and seal or hands and seals of such Justice or Justices, and all such fines, forfeitures or penalties by this Act imposed or authorized to be imposed, the application whereof is not hereinbefore particularly directed, shall be paid into the hands of the Treasurer or Receiver of the moneys to be raised by virtue of this Act, and shall be applied and disposed of for the use of the said Rail-road or undertaking, and the overplus of the money raised by such distress and sale, after deducting the penalty and the expenses of levying and recovering thereof, shall be rendered to the owner of the goods so distrained and sold; for want of sufficient goods and chattels whereof to levy, the said offender shall be sent to the common Gaol for any of such Districts, there to remain without bail or mainprize for such term not exceeding one month, as such Justice or Justices shall think proper, unless such penalty and forfeiture and all expenses attending the same shall be sooner paid and satisfied.

Fines under this Act how to be recovered.

Levy by distress and sale of goods and chattels.

Imprisonment for want of sufficient chattels.

Persons ag-
grieved may
appeal to the
general ses-
sions.

XLVI. And be it enacted, That if any person or persons shall think himself or herself or themselves aggrieved by any thing done by any Justice or Justices of the Peace in pursuance of this Act, such person or persons may, within four calendar months after the doing thereof, appeal to the Justices of the Peace at the General Quarter or General Sessions to be holden in and for the District.

Limitation of
actions for
things done in
pursuance of
this Act.

XLVII. And be it enacted, That if any action or suit shall be brought or commenced against any person or persons for any thing done or to be done in pursuance of this Act, or in the execution of the powers and authorities or of the orders and directions hereinbefore given or granted, every such action or suit shall be brought or commenced within six calendar months next after the fact committed, or in the case there shall be a continuation of damage, then within six calendar months next after the doing or committing such damage shall cease, and not afterwards; and the Defendant or Defendants in such action or suit, shall and may plead the general issue, and give this Act and the special matter in evidence at any trial to be held thereupon, and that the same was done in pursuance and by the authority of this Act; and if it shall appear to have been so done, or if any action or suit shall be brought after the time so limited for bringing the same, or if the Plaintiff or Plaintiffs shall be non-sued, or discontinue his, her or their action or suit, after the Defendant or Defendants shall have appeared, or if judgment shall be given against the Plaintiff or Plaintiffs, the Defendant or Defendants shall have full costs, and shall have such remedy for the same as any Defendant or Defendants hath or have for costs of suit in other cases by law.

General issue.

Costs to De-
fendant if
Plaintiff fail.

Any contra-
vention of
this Act not
otherwise
punishable to
be a misde-
meanor.

XLVIII. And be it enacted, That any contravention of this Act by the said Company or any other party, for which no punishment or penalty is herein provided, shall be a misdemeanor, and shall be punished accordingly, but such punishment shall not exempt the said Company (if they be the offending party) from the forfeiture of this Act, and the privileges hereby conferred on them, if, by the provisions thereof, or by law, the same be forfeited by such contravention.

Her Majesty
may assume
the Rail-way
on certain
conditions.

XLIX. And be it enacted, That Her Majesty, Her Heirs and Successors, may at any time before or after the said Rail-road is completed, assume the possession and property thereof, and of all the property which the said Company is hereby empowered to hold, and shall then have all the right, privileges and advantages vested by this Act in the said Company, (all which after such assumption shall be vested in Her Majesty, Her Heirs and Successors) on giving to the said Company three months notice of the intention to assume the same, and on paying to the said Company, within three months of the expiration of such notice, the whole amount of their Capital Stock then paid up and expended, with interest at ten per centum on the paid up capital, from the time of the paying up of the same until the time of the opening of the said Rail-way.

Company an-
nually to sub-
mit to the Le-
gislation de-
tailed account.

L. And be it enacted, That the said Company shall annually submit to the three branches of the Legislature, within the first fifteen days after the opening of each Session of the Provincial Parliament, after the opening of the said Rail-road or any part thereof to the public, a detailed and particular account, attested upon oath, of the moneys by them received and expended, under and by virtue of this Act, with a classified statement of the amount of tonnage and of passengers that have been conveyed along the said Rail-road, and no further provisions which the Legislature may hereafter make with regard to the form or details of such account, or the mode of attesting or rendering

rendering the same, shall be deemed an infringement of the privileges hereby granted to the Company.

LI. And be it enacted, That nothing herein contained shall be construed to exempt the Rail-road by this Act authorized to be made, from the provisions of any General Act relating to Rail-ways which may be passed during the present or any future Session of Parliament.

Company not to be exempt from the operation of any general Rail-way Act.

LII. And be it enacted, That nothing herein contained shall affect or be construed to affect in any manner or way whatsoever, the rights of Her Majesty, Her Heirs and Successors, or of any person or persons, or of any bodies politic, corporate or collegiate, such only excepted as are herein mentioned.

Saving of Her Majesty's rights and those of all other persons.

LIII. And be it enacted, That the Survey, Map and Book of Reference hereinbefore mentioned, shall be made, and the said Map and Book of Reference shall be deposited within three years from the passing of this Act, and the said Rail-road hereby authorized shall be completed within ten years from the passing of this Act, or else, every matter and thing herein contained shall be and become absolutely null and void, as to so much of the said line of Rail-road as shall not then be completed.

Rail-road to be completed within ten years.

Penalty.

LIV. And be it enacted, That this Act shall be deemed and taken to be a Public Act, and as such shall be judicially taken notice of by all Judges, Justices of the Peace and others, without being specially pleaded.

Public Act.

MONTREAL: Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.

1121

PROVINCIAL STATUTES
OF
CANADA,

ENACTED by Her Most Excellent Majesty, Our Sovereign Lady VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, QUEEN, Defender of the Faith, &c., by and with the advice and consent of the Legislative Council and Assembly of the said Province, constituted and assembled by virtue of and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the Third and Fourth years of Her Majesty's Reign, intituled, "*An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada.*"

VOL. III. 2nd Sess. 3rd Parlt. Continued.
RESERVED ACTS.



MONTREAL :
PRINTED BY STEWART DERBISHIRE & GEORGE DESBARATS,
LAW PRINTER TO THE QUEEN'S MOST EXCELLENT MAJESTY.

Anno Domini, 1849.

PROVINCIAL STATUTES

OF

CANADA.

ANNO REGNI DUODECIMO

VICTORIÆ,

DEI GRATIÂ BRITANNIARUM REGINÆ.

HIS EXCELLENCY THE RIGHT HONORABLE

JAMES, EARL OF ELGIN AND KINCARDINE, K. T.

GOVERNOR GENERAL.

**BEING THE SECOND SESSION OF THE THIRD PROVINCIAL PARLIAMENT OF
CANADA.**

RESERVED ACTS

To which the ROYAL ASSENT was subsequently promulgated by His Excellency JAMES,
EARL OF ELGIN AND KINCARDINE, K. T. &c. &c. &c. Governor General



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CXCVII.

An Act to repeal a certain Act therein mentioned, and to make better provision for the Naturalization of Aliens.

30th MAY, 1849.—Presented for Her Majesty's Assent, and Reserved for the signification of Her Majesty's pleasure thereon.

6th October, 1849.—Assented by Her Majesty in Privy Council.

23d November, 1849.—The Royal Assent signified by the Proclamation of His Excellency the EARL of ELGIN AND KINCARDINE, Governor General.

WHEREAS great inconvenience has been experienced in the practical operation of the Law granting to Aliens the Rights and Capacities of Natural-born British Subjects, and it is expedient to amend the same, as well for the purpose of remedying that inconvenience as with the view of affording greater security and facility in the possession and transfer of property: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That a certain Act of the Parliament of this Province, passed in the Ninth year of Her Majesty's Reign, and intituled, *An Act to make further provision regarding Aliens*, be and the same is hereby repealed; Provided always, that the repeal of the said Act shall not affect the Naturalization of any person Naturalized under it, or any Rights acquired by such person or by any other party by virtue of such Naturalization, which shall remain as valid, and such Rights shall be possessed and enjoyed by such person or party as if the said Act were not repealed.

Preamble.

Act 9 Vic. c. 107, repealed.

Proviso: as to rights acquired under it.

II. And be it enacted, That all Aliens who had their settled place of abode in either of the late Provinces of Lower or Upper Canada before the Tenth day of February, in the year of our Lord, one thousand eight hundred and forty-one, and who are still resident in this Province, shall be and are hereby admitted to and confirmed in all the Privileges of British birth, and shall be deemed, adjudged and taken to be and to have been Natural-born Subjects of Her Majesty, to all intents and purposes whatsoever, as if they and every of them had been born in this Province, and that the children or more remote descendants of every such person who may be dead, shall be and are hereby admitted to the same Privileges which such parents or ancestors, if living, could claim under this Act: Provided always, nevertheless, that none of such persons (except females) who have not taken the oath or affirmation of allegiance before some of Her Majesty's Justices of the Peace or other person duly authorized by Law to administer the

Aliens resident before 10 February 1841, and their descendants, naturalized.

Proviso: as to oath of allegiance.

the

the same, shall be entitled to the benefit of this Act unless they shall take such oath or affirmation before such Justice or other person as aforesaid.

As to Aliens
resident on 10
February 1848.

III. And be it enacted, That all Aliens who had their settled place of abode in this Province, on the Tenth day of February, in the year of our Lord, one thousand eight hundred and forty-eight, not being of either of the descriptions of persons before mentioned, who shall have resided or shall continue to reside therein or in some other part of Her Majesty's dominions, until they shall have been resident inhabitants thereof for the space of seven years continually, without having been during that time stated residents in any foreign country, shall be and are hereby admitted to all the privileges of British birth, and shall be deemed, adjudged, and taken to be and to have been Natural-born subjects of Her Majesty to all intents and purposes whatsoever, as if they and every of them had been born in this Province: Provided always, nevertheless, that none of the persons described in this clause (except females), who have not taken the oath or affirmation of allegiance before some of Her Majesty's Justices of the Peace or other person duly authorized by law to administer the same, shall be entitled to the benefit of this Act, unless they shall take such oath or affirmation before such Justice of the Peace or other person as aforesaid.

Proviso: as to
oath of alle-
giance.

As to other
Aliens now
resident, or
hereafter be-
coming so.

IV. And be it enacted, That every Alien now residing in or who shall hereafter come to reside in any part of this Province, with intent to settle therein, who after a continued residence therein for a period of seven years or upwards, shall take the oaths or affirmations of residence and allegiance (or the oath or affirmation of residence only if a female) and procure the same to be filed of record as hereinafter prescribed, so as to entitle him or her to a Certificate of Naturalization as hereinafter provided, shall thenceforth enjoy and may transmit all the rights and capacities which a Natural-born subject of Her Majesty can enjoy or transmit.

Oath of Resi-
dence required
in the case last
mentioned.

V. And be it enacted, That every such Alien shall take and subscribe the following Oath of Residence, or being one of those persons who are allowed by the Laws of this Province to affirm in judicial cases, shall make affirmation to the same effect, that is to say :

OATH OF RESIDENCE.

" I, A. B., do swear (or, being one of the persons allowed by Law to affirm in judicial cases, do affirm) that I have resided seven years in this Province, with intent to settle therein, without having been during that time a stated resident in any foreign country. So help me God."

Oath of alle-
giance also
required.

And every such Alien being a male shall also take and subscribe the following Oath of Allegiance, or being one of those persons who are allowed by the Laws of this Province to affirm in judicial cases, shall make affirmation to the same effect, that is to say :

OATH OF ALLEGIANCE.

" I, A. B., do sincerely promise and swear (or, being one of the persons allowed by Law to affirm in judicial cases, do affirm) that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, as lawful Sovereign of the United Kingdom of Great Britain and Ireland, and of the Province of Canada dependent on and belonging to the

" said

“ said United Kingdom, and that I will defend Her to the utmost of my power against all
 “ traitorous conspiracies and attempts whatever which shall be made against Her Person,
 “ Crown and Dignity ; and that I will do my utmost endeavour to disclose and make
 “ known to Her Majesty, Her Heirs and Successors, all treasons and traitorous conspi-
 “ racies and attempts which I shall know to be against Her or any of them ; and all this
 “ I do swear without any equivocation, mental evasion, or secret reservation, and
 “ renouncing all pardons and dispensations from any person or persons whatever to the
 “ contrary. So help me God.”

Which oath or oaths, or affirmation or affirmations, shall be taken and subscribed by the said Alien, and shall be duly administered to him or her by or before any Justice of the Peace or any person having *ex officio* the power and authority of a Justice of the Peace within the City, Town, Parish, Village or Township in which the said Alien may reside, which said Justice of the Peace or person having such power as aforesaid, shall thereupon grant unto the said Alien a Certificate of Residence, setting forth that such Alien has taken and subscribed the said oath or oaths, or affirmation or affirmations, and (if the fact is so) that such Justice or person having such power as aforesaid has every reason to believe that such Alien had been so resident within the Province for a period of seven years or upwards ; that he or she is a person of good character, and that there exists to the knowledge of such Justice or person having such power as aforesaid, no reason why the said Alien should not be granted all the rights and capacities of a Natural-born British Subject.

Before whom such oaths may be taken.

Certificate to be granted to an Alien.

VI. And be it enacted, That it shall be lawful for the said Alien to present the Certificate of Residence from the said Justice of the Peace, or other person as aforesaid, to the Court of Quarter Sessions of the Peace, or the Recorder's Court of the District, County or City within the jurisdiction of which he shall reside in Upper Canada, or to the Circuit Court in and for the Circuit within which he shall reside in Lower Canada, in open Court, on the first day of some general sitting thereof, and it shall thereupon be the duty of such Court to cause the same to be openly read in such Court ; and thereupon, if in the interval the facts mentioned in the said Certificate of Residence shall not be controverted, or any other valid objection made to the Naturalization of such Alien, it shall and may be lawful for such Court, on the last day of such General Sitting, to direct that such Certificate of Residence shall be filed of record in the said Court, and thereupon such Alien shall be thereby admitted and confirmed in all the rights and privileges of British birth, to all intents, constructions and purposes whatsoever, as if he or she had been born within this Province.

Certificates to be presented to and recorded in certain Courts unless cause be shewn to the contrary.

Effect of recording the same.

VII. And be it enacted, That every such person shall be thenceforth entitled to receive a Certificate of Naturalization under the Seal of such Court and the Signature of the Clerk thereof, that he or she hath complied with the several requirements of this Act ; which Certificate of Naturalization may be in the following form, or to the like effect, that is to say :

Certificate of naturalization to be granted.

Form.

CANADA

Circuit,

or

District of

or

County of

or

City of

To wit :

In the Court of

Whereas A. B., of, &c. (*describing him or her as formerly of such a place, in such a foreign Country, and now of such a place in this Province, and adding his or her addition*) hath complied with the several requirements of a certain Act of the Parliament of this Province passed in the _____ year of the reign of Her Majesty Queen Victoria, intituled, "An Act (*insert the title of this Act*) and the Certificate thereof had been this day read in open Court, and thereupon, by order of the said Court, duly filed of record in the same, pursuant to the directions of the said Act ; These are therefore to certify to all whom it may concern, that under and by virtue of the said Act, the said A. B. hath obtained all the rights and capacities of a Natural-born British Subject within this Province, to have, hold, possess and enjoy the same within the limits thereof, upon, from and after the _____ day of _____ (*the day of filing the Certificate of Residence*) in the year of our Lord, one thousand eight hundred and _____ and this Certificate thereof is hereby granted to the said A. B., according to the form of the Statute in such case made and provided.

Given under my hand and the Seal of the said Court, this _____ day of _____ in the year of our Lord, one thousand eight hundred and _____

Signature,

C. D.

Clerk of the Peace,

(*or Clerk of the Recorder's Court, or Clerk of the Circuit Court, as the case may be.*)

What shall be evidence of such naturalization.

VIII. And be it enacted, That a copy of the said Certificate of Naturalization may, at the option of the party, be entered and registered in the Registry Office of any County or Division of a County within this Province, and a certified copy of such Registry shall be sufficient evidence of such Naturalization in all Courts and places whatsoever.

Aliens entitled under Sect. 2 or 3, may obtain certificates, &c.

IX. Provided always, and be it enacted, That it shall be lawful for any Alien entitled to be naturalized under the provisions of the second or of the third section of this Act, to take the oaths or affirmations of Residence and of Allegiance, and to obtain Certificates as aforesaid in the same manner as Aliens entitled to be naturalized under the provisions of the fourth section of this Act only, and with the same effect to all intents and purposes.

Wives of British Subjects to be deemed

X. And be it enacted, That any women married or who shall be married to a Natural-born British Subject, or person naturalized under the authority of this or any other or former

former Act either of this Province or of either of the late Provinces of Lower or Upper Canada, shall be deemed and taken to be herself naturalized, and have all the rights and privileges of a Natural-born British Subject.

British Subjects.

XI. And be it enacted, That the said Justice of the Peace or other persons as aforesaid, for administering the oath or oaths or affirmation or affirmations above mentioned, shall be entitled to recover and receive from the person to whom the same may be administered, the sum of one shilling and three pence, and no more; and that the Clerk of the Peace or Clerk of the Recorder's Court, or Clerk of the Circuit Court shall, for reading and filing the Certificate of Residence, and preparing and issuing the Certificate of Naturalization under the Seal of the Court, be entitled to recover and receive from such person the sum of one shilling and three pence, and no more; and that the Registrar of the County, shall, for recording the said last mentioned Certificate, be entitled to recover and receive from such person, the sum of one shilling and three pence, and a further sum of one shilling and three pence for every search and certified copy of the same, and no more.

Fees for duties performed under this Act.

XII. And be it enacted, That from and after the passing of this Act, every Alien shall have the same capacity to take, hold, possess, enjoy, claim, recover, convey, devise, impart and transmit Real Estate in all parts of this Province, as Natural-born or Naturalized Subjects of Her Majesty, in the same parts thereof respectively; Provided always, that nothing herein contained shall alter, impair or affect or be construed to alter, impair or affect in any manner or way whatsoever, any right or title legally vested in or acquired by any person or persons whomsoever previous to or at the time of the passing of this Act.

Aliens may hold and transmit Real Estate.

Proviso: as to vested rights.

XIII. Provided always, and it is hereby declared, That the privileges of Naturalization imparted by this Act to the several classes of persons herein mentioned, are imparted to such persons respectively on the respective terms and conditions herein stated and set forth, and to be by such persons exercised and enjoyed within the limits of this Province, according to the true intent and meaning of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, in the Tenth and Eleventh years of Her Majesty's Reign, and intituled, *An Act for the Naturalization of Aliens*.

On what terms and conditions the privileges hereby granted shall be exercised.

XIV. And be it enacted, That nothing in this Act contained shall be taken to repeal or in any manner affect or interfere with a certain Act of the Legislature of Upper Canada, passed in the Fifty-fourth year of the Reign of His late Majesty King George the Third, intituled, *An Act to declare certain persons therein described Aliens, and to vest their estates in His Majesty*, or any proceedings had under the said Act.

Act of U. C. 54 Geo. 3, c. 9, not to be affected.

XV. And be it enacted, That any person who shall wilfully swear falsely or make any false affirmation under the authority of this Act, before any Justice of the Peace, or before any person having *ex officio* the power and authority of Justice of the Peace as aforesaid, shall be deemed guilty of wilful and corrupt perjury, and every such person shall, on conviction thereof, in addition to any other punishment authorized by Law, forfeit all the privileges and advantages which he or she would otherwise by making such oath or affirmation have been entitled to under this Act, but the rights of

False swearing or affirming to be perjury.

Additional punishment.

others

others in respect to estates derived from or held under him or her, shall not thereby be prejudiced, excepting always such others as shall have been cognizant of the perjury at the time the title by which they claim to hold under him or her was created.

This Act may
be amended,
&c.

XVI. And be it enacted, That this Act may be amended, altered or repealed by any Act to be passed in the present Session of the Provincial Parliament.

C A P. C X C V I I I.

An Act to secure Titles to Real Estate to certain Persons Naturalized under the Statute of Lower Canada, 1st Will. the IV, Chap. 53.

30th MAY, 1849.—Presented for Her Majesty's Assent, and Reserved for the signification of Her Majesty's pleasure thereon.

6th October, 1849.—Assented by Her Majesty in Privy Council.

23d November, 1849.—The Royal Assent signified by the Proclamation of His Excellency the EARL OF ELGIN AND KINCARDINE, Governor General.

Preamble.

Act of L. C. 1
W. 4, c. 53.

Recital.

Parties having
complied with
the said Act,
maintained in
their right to
property in
their posses-
sion at the time
of the passing
of the said
Act, as Heirs
or Legatees,
&c., of Aliens.

WHEREAS an Act of the Legislature of that part of the Province which heretofore constituted the Province of Lower Canada, was passed in the First year of the Reign of His late Majesty King William the Fourth, intituled, *An Act to secure to and confer upon certain Inhabitants of this Province the Civil and Political Rights of Natural-born British Subjects*; and whereas notwithstanding the express terms of the said Act and the declared and manifest intentions of the Legislature to confer upon the classes of individuals mentioned in the same, the right to take, hold, possess, convey and transfer Real Property in the said part of the said Province, to all intents and purposes as if they had been born in the United Kingdom of Great Britain and Ireland, divers suits at Law and other proceedings have been brought, taken and had to disturb certain persons entitled to the benefit of the said Act, in the enjoyment of Real Property secured to them under and by virtue of the same: And whereas it is just and right to quiet the Titles to such Real Property so held as aforesaid, and to protect the holders thereof from vexatious proceedings: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That all parties who have duly complied with the requirements of the said above-recited Statute of Lower Canada, shall be, and they are hereby confirmed and maintained in the enjoyment of all Real Property which was in their actual occupation and enjoyment at the time of the passing of the said Act, and which at any time before had been devised and bequeathed to them by Will, Deed or Gift, or otherwise, or of which they took possession and enjoyed in fact, as if they had been legal Heirs of their deceased parents being Aliens, and in all Rights, Title and Interest in and to such Real Property, and the rents, issues and profits thereof as fully, to all intents and purposes, as any Natural-born Subject of the Crown of Great Britain and Ireland might, and could, and may, and can take, hold and enjoy Real Property devised or bequeathed to him or them, or coming to him or them by right of descent and inheritance; any Law, Statute, Usage, Judgment, Execution, Process or Proceedings whatever to the contrary notwithstanding.

II. And be it enacted, That it shall be lawful for any party or parties having so complied with the Statute of Lower Canada as aforesaid, and Naturalized by virtue thereof, who by reason of or upon the ground of his or their having been or being an Alien or Aliens, is or shall be disturbed or who may since the passing of that Act have been disturbed on such ground as aforesaid, in the actual enjoyment and occupation of any Real Property by him claimed under the said Statute as Heir, Devisee, Donee or Grantee of his father or mother being Aliens, by any party or parties claiming under any Judgment, Order, Decree, Writ, Process or Proceedings of any Court or Courts of Justice which may have been at any time heretofore, or may be at any time hereafter rendered by order thereof, to apply by petition to any Court of Queen's Bench, in the said part of this Province which was heretofore Lower Canada, and upon proof by affidavit or otherwise, that the said party petitioning hath been Naturalized under the said Statute, and upon proof of service of a copy of such petition upon the adverse party or parties at least Twenty-one days before the day of presenting such petition, it shall be the duty of any such Court of Queen's Bench to make an Order to quash all Writs of Execution and all proceedings under colour of any Judgment or Judgments, or of such Writs and Process, by which such petitioner may be disturbed in or deprived of the enjoyment and possession of any Real Property so by him claimed, held, occupied and enjoyed under the said Statute as Heir, Devisee, Donee or Grantee of his father or mother being Aliens, and upon the making of the said Order all proceedings whatever under such Judgments, Writs and Process shall surcease and determine, and the said Writs and Process shall be quashed and annulled and set aside.

Remedy of such parties if disturbed in their possession by other parties claiming under judgments, &c.

Petition to Court of Q. B. with affidavit.

Court to quash any Writ of execution, &c.

Effect of such Order.

III. And be it enacted, That nothing in this Act contained shall prevent any remedy at Law which any party may now have to enforce the payment of costs awarded under and by virtue of any Judgment or Judgments against any other party Naturalized under the said Statute, and otherwise entitled to claim the protection under this Act, but that every remedy which the party having an award of costs now hath or is entitled to exercise, shall continue to be exercised in the same manner and form as if this Act had never been passed.

This Act not to affect costs awarded before the passing hereof.



ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CXCIX.

An Act to incorporate the Queenston Suspension Bridge Company.

30th May, 1849.—Presented for Her Majesty's Assent, and Reserved for the signification of Her Majesty's pleasure thereon.

6th October, 1849.—Assented by Her Majesty in Privy Council.

23d November, 1849.—The Royal Assent signified by the Proclamation of His Excellency the EARL OF ELGIN AND KINCARDINE, Governor General.

WHEREAS Joseph Wynn, Robert Hamilton, John Stayner, Andrew Tod, William Duff, Richard Miller and others, have by a Petition set forth the facility and convenience, which the construction of a Suspension Bridge over the Niagara River, at or near Queenston would offer to the public, and have prayed that they and such others as may be associated with them for the purposes hereinafter mentioned, may be incorporated, and certain powers granted them to enable them to construct such a Bridge: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the said Joseph Wynn, Robert Hamilton, John Stayner, Andrew Tod, William Duff, Richard Miller, and all persons who shall become shareholders in the undertaking hereinafter mentioned, pursuant to this Act, shall be and they are hereby constituted a Body Corporate and Politic by and under the name, style and title of the Queenston Suspension Bridge Company, with power to unite with any other persons, Company or Body Politic to construct a Suspension Bridge across the Niagara River at or near Queenston, with the necessary approaches thereto with rail Macadamized, or other roads, and to connect the same with any road now or hereafter to be made, at any point within half a mile of the said Town of Queenston, and the said corporation by the name aforesaid shall and may, they and their successors, have perpetual succession, and be capable of contracting and being contracted with, suing and being sued, pleading and being impleaded, answering and being answered unto in all Courts and places whatsoever in all manner of actions, suits, complaints, matters and concerns whatsoever, and they and their successors may and shall have a Common Seal, and may change and alter the same at their will and pleasure; and also, that they and their successors, under the said name of the Queenston Suspension Bridge Company, shall be by law capable of purchasing, having and holding any real or personal estate for the use of the said Company, and of departing therewith for the benefit of the said Company: Provided always, nevertheless, that the value of the real estate so holden by the said Company at any time, exclusive of the said Bridge, shall not exceed the sum of one thousand pounds.

Preamble.

Certain persons incorporated.

Corporate name. Power to unite with other Companies for certain purposes. Further powers.

Holding property.

Proviso as to amount of real estate.

Amount of
Capital and
value of shares.

II. And be it enacted, That ten thousand pounds shall constitute the Capital Stock of the said Company, and that the same shall be divided into shares of twenty-five pounds each.

Commission-
ers appointed
for opening
Books of Sub-
scription, &c.

III. And be it enacted, That the said Joseph Wynn, Robert Hamilton, John Stayner, Andrew Tod, William Duff and Richard Miller, with Richard Woodruff, and Gilbert McMicken, Esquires, shall be Commissioners, who shall, on the first day of September next, at Queenston aforesaid, or at such other place or places as they or a majority of them shall appoint, open books to receive subscriptions to the Capital Stock of the said Corporation, and that thirty days' public notice shall be given by the said Commissioners of the time and place of opening such books, in a newspaper printed and published in the District of Niagara, and that the said books shall remain open for at least three days, at the several places where the same may be opened, under the direction of one or more of the said Commissioners, and such sum as they may think expedient not exceeding ten per cent, shall be paid on each share subscribed at the time of subscribing.

Notice to be
given, &c.

Commission-
ers to meet
and distribute
the Stock sub-
scribed for.
Mode of distri-
buting the
same.

IV. And be it enacted, That the said Commissioners shall assemble at Queenston, on the first day of October next, or as soon thereafter as the whole Capital Stock of the said Corporation shall be taken up, and shall proceed to distribute the said Stock amongst the subscribers thereto, and in case there shall be subscriptions to more than the amount of such Stock within the term specified for keeping open the said books, it shall then be the duty of the said Commissioners to apportion the same among the subscribers in such manner as a majority of them shall deem most advisable, and as soon as the stock shall be distributed, the Commissioners shall give notice of a meeting of the shareholders at Queenston, to choose seven Directors; the notice last mentioned shall be published for the same time and in the same manner as the notice hereinbefore mentioned, and such election shall be made at the time and place so to be appointed by such of the shareholders, as shall attend for that purpose either in person or by lawful proxy; and the said Commissioners shall deliver over the subscription money and books to the said Directors, and the time and place of holding the first meeting of Directors shall be fixed by the Commissioners.

Notice of
Meeting for
electing Di-
rectors.

Books, &c., to
be delivered to
Directors.

Number and
qualification of
Directors.

Annual elec-
tions.

Notice: mode
of voting, &c.

V. And be it enacted, That the Stock and affairs of the said Corporation shall be managed by seven Directors, who shall be shareholders, annually chosen (except at the first election) on the first Monday in May, in each year, at Queenston, at a meeting of the shareholders, of which due notice shall be given at least ten days before such election, and each shareholder, at all elections of Directors, shall be entitled in person or by proxy, to one vote for each share of Stock held in his own name at least fourteen days previous to the time of voting; all elections shall be by ballot, and the persons having the greatest number of votes shall be Directors, and shall hold their Offices for one year and until others shall be chosen in their places; the Directors shall, at their first meeting after each election, choose one of their number to be President, and shall have power to appoint a Treasurer.

Term of
Office.

President and
Treasurer to
be appointed.

Subscription
how payable.

VI. And be it enacted, That the Directors may require from the shareholders payment of all sums of money by them subscribed, by instalments not exceeding ten per cent per month, at such time and in such proportions as may be deemed proper, under the penalty of the forfeiture of their respective shares and of all previous payments thereon.

VII. And be it enacted, That the Directors for the time being, or a majority of them, shall have power to make and subscribe such Rules and By-laws as to them shall appear needful and proper, touching the management and disposition of the Stock, property, estate and effects of the said Corporation, and touching the duties of its Officers, Clerks, and Servants, their appointments and salaries, and all such other matters and things as shall appertain to the business of the said corporation.

Directors may
make By-laws,
&c.

VIII. And whereas the construction of the Bridge to be erected over the said River will decrease the amount of rent accruing to the Province from the Ferry across the Niagara River, by reason of the disuse of the said ferry from the greater facility afforded by the said Bridge—Be it therefore enacted, That it shall and may be lawful for the Justices of the Peace for the District of Niagara, or a majority of them, at the Court of General Quarter Sessions of the Peace to be held in January next, to fix and determine the sum which the said Company shall pay yearly to the Crown, as a compensation for such decrease of rent, and a Report of such determination shall be transmitted to the Inspector General by and under the Hand and Seal of the Chairman of the said Sessions, and also to the Secretary of the said Company, and the sum so fixed and determined shall thereafter become due yearly to Her Majesty, on the first day of January in each year, and shall be paid accordingly by the said Company to the Receiver General for the public uses of the Province.

Recital.

Compensation
to be paid to
the Province
for the de-
creased value
of the Ferry.

IX. And be it enacted, That the said Directors shall have power to cause such examination and surveys of the way, to, and locations for the said Bridge as may be necessary to the selection of the most advantageous site for the same, and shall have full power to enter upon, take and occupy any lands necessary for the construction of the rail or other roads leading to and from the same within the limits aforesaid, first paying or tendering the value thereof, which value shall be determined by two persons selected, one by the claimant and the other by the said Company, and in case they do not agree, a third person shall be selected by them (or if they cannot agree upon such third person, then by the District Judge, on the application of either of them) whose decision shall be final; and the said Directors shall select, and by certificate designate the ways to and site of the said Bridge, copies of which said certificate shall be filed in the Office of the Register of the County of Lincoln, and such ways and site shall be deemed the way to and site for the said Bridge, and on which the said Corporation may make and construct the said ways and Bridge as hereinafter mentioned.

Power to
make surveys:

To take lands.

Compensation
to be made.

To be settled
by arbitration
if the parties
cannot agree:

Selection of
site to be regis-
tered.

X. And be it enacted, That whenever the said Bridge shall be completed, and its safety fully tested, and the fact certified by the Warden of the District, the said Corporation may erect a Gate or Gates, and determine and establish the Rates of Toll to be demanded for the use of the said Bridge.

Tolls to be
taken when
the Bridge is
completed.

XI. And be it enacted, That the said Directors shall have power to make such Rules and pass such By-laws as they may think reasonable and proper with suitable penalties (not exceeding in any case Twenty Pounds) touching the speed in passing over the said Bridge, and the weight to be admitted thereon at any one time, which Rules, as well as the Rates of Toll, shall be plainly painted on a board or cloth, and put up on or near each Gate, in a conspicuous place, and such penalties, if incurred, shall be recoverable in like manner as the penalties hereby imposed.

Directors may
make By-laws
touching the
use of the
Bridge.

To be publicly
posted up.

XII. And be it enacted, That if any person or persons shall forcibly pass any Gate without having paid the legal Toll, such person or persons shall forfeit and pay to the said Corporation, a sum of not less than Two Pounds, and not exceeding Twenty Pounds,

Penalty for
passing with-
out paying
Toll.

to be recovered before any Justice of the Peace of the Niagara District, in the same manner as any other fines are recoverable before Justices of the Peace.

Penalty on
Toll-gatherer
unreasonably
delaying pas-
sengers, &c.
How recover-
able.

XIII. And be it enacted, That if any Toll-gatherer shall unreasonably and without cause, delay or hinder any passenger or the passage of any property agreeably to the Rule prescribed in such case, or shall demand or receive more than the legal Toll, he shall for every such offense forfeit the sum of One Pound Five Shillings currency, to be recovered with costs, for the use of the person so delayed, hindered or defrauded, before any one Justice of the Peace for the Niagara District, who may on conviction of such offender, condemn such person to pay the said penalty, and levy the same in the manner hereinafter mentioned.

Penalty on
persons in-
juring the
Bridge, &c.

XIV. And be it enacted, That if any person shall wilfully do or cause to be done any act or acts whatsoever, whereby the said Bridge or any thing appertaining thereto shall be impaired or injured, the said person or persons so offending shall forfeit and pay to the said Corporation treble the damages sustained by means of such offence or injury, to be recovered in the name of the Corporation, with costs of suit by action, and shall be moreover guilty of a misdemeanor, and be punishable by fine or imprisonment, or both, by any Court having cognizance of such offence; Provided that nothing in this Act contained shall be construed to extend to take away the Jurisdiction given to Justices of the Peace by any Act passed in the Fourth and Fifth years of the Reign of Her present Majesty, intituled, *An Act for consolidating and amending the Laws in this Province relative to malicious injuries to property.*

Proviso:
Saving Juris-
diction of
Justices of the
Peace.

Penalties to be
levied by
distress.

XV. And be it enacted, That the fines and forfeitures authorized to be imposed by any Justice of the Peace by this Act, shall and may be levied and collected by distress and sale of the offender's goods and chattels, under the authority of any Warrant to be for that purpose issued by such Justice, who is hereby authorized and empowered to grant the same.

Limitation of
suits for things
done under
this Act.
General issue
may be
pleaded.

XVI. And be it enacted, That if any action or suit shall be brought against any person or persons for any matter or thing done in pursuance of this Act, such action or suit shall be brought within Six calendar months next afterwards, and the defendant or defendants in such action or suit may plead the general issue only, and give this Act and the special matter in evidence on the trial.

Bridge must
be built within
three years.

XVII. And be it enacted, That if the said Bridge shall not be constructed and used within three years from the passing of this Act, then the said Corporation and the privileges hereby conferred upon it shall, from thenceforth, cease and determine.

Public Act.

XVIII. And be it enacted, That this Act shall be deemed and taken to be a Public Act, and as such shall be judicially noticed by all Judges, Justices of the Peace, and other persons, without being specially pleaded.

Saving of the
Right of the
Legislature to
amend or alter
this Act.

XIX. And be it enacted, That notwithstanding the privileges hereby conferred, the Legislature may at any time hereafter make such additions to this Act, or such alterations of any of its provisions as they may think proper, for affording just protection to the public, or to any person or persons, Body Politic or Corporate in respect to their Estate, Property or Rights, or any interest therein, or any advantage, privilege or convenience connected therewith, or in respect to any way or right, public or private, that may be affected by any of the powers given by this Act.

PROVINCIAL STATUTE

OF

CANADA,

ENACTED by Her Most Excellent Majesty, Our Sovereign Lady VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, QUEEN, Defender of the Faith, &c., by and with the advice and consent of the Legislative Council and Assembly of the said Province, constituted and assembled by virtue of and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the Third and Fourth years of Her Majesty's Reign, intituled, "*An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada.*"

VOL. III. 2nd Sess. 3rd Parlt. Continued.

RESERVED ACT.



MONTREAL:
PRINTED BY STEWART DERBISHIRE & GEORGE DESBARATS,
LAW PRINTER TO THE QUEEN'S MOST EXCELLENT MAJESTY.

Anno Domini, 1850.

PROVINCIAL STATUTE

OF

CANADA.

ANNO REGNI DUODECIMO

VICTORIÆ,

DEI GRATI^Â BRITANNIARUM REGINÆ.

HIS EXCELLENCY THE RIGHT HONORABLE

JAMES, EARL OF ELGIN AND KINCARDINE, K. T.

GOVERNOR GENERAL.

BEING THE SECOND SESSION OF THE THIRD PROVINCIAL PARLIAMENT OF
CANADA.

RESERVED ACT

To which the ROYAL ASSENT was subsequently promulgated by His Excellency JAMES,
EARL OF ELGIN AND KINCARDINE, K. T. &c. &c. &c. Governor General.





ANNO DUODECIMO
VICTORIÆ REGINÆ.

CAP. CC.

An Act to raise an Income of One Hundred Thousand Pounds out of the Public Lands of Canada, for Common School Education.

30th May, 1849.—Presented for Her Majesty's Assent, and Reserved for the signification of Her Majesty's pleasure thereon.

9th March, 1850.—Sanctioned by Her Majesty in Council.

27th May, 1850.—Her Majesty's Assent communicated by Message from HIS EXCELLENCY THE GOVERNOR GENERAL to the Honorable the Legislative Council and Legislative Assembly, in Session.

WHEREAS it is desirable that an annual sum of one hundred thousand pounds should be raised from the Public Lands of this Province, for the maintenance and support of Common Schools therein, and that so much of the first moneys to be raised by the sale of such Lands as shall be sufficient to create a Capital which shall produce the said annual sum of one hundred thousand pounds at the rate of six per cent per annum, should be set apart for that purpose: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That all moneys that shall arise from the Sale of any of the Public Lands of the Province, shall be set apart for the purpose of creating a Capital which shall be sufficient to produce a clear sum of one hundred thousand pounds per annum, which said Capital and the Income to be derived therefrom shall form a Public Fund to be called the Common School Fund.

Preamble.

All moneys arising from the Sale of any Public Lands appropriated to form a School Fund, until they amount to a certain sum.

II. And be it enacted, That the Capital of the said Fund shall from time to time be invested in the Debentures of any Public Company or Companies in the Province, which may have been incorporated by an Act of the Legislature, for the construction of Works of a public nature, and which said Company or Companies shall have subscribed their whole Capital Stock, paid up one half of such Stock and completed one half of such Work or Works, or in the Public Debentures of this Province, for the purpose of creating such Annual Income; which said Fund and the Income thereof shall not be alienated for any other purpose whatever, but shall be and remain a perpetual Fund for the support of Common Schools, and the establishment of Township and Parish Libraries.

How such moneys shall be invested. Stock of Public Companies. Provincial Debentures.

To what purposes only such moneys shall be applied.

III. And be it enacted, That the Commissioner of Crown Lands under the direction of the Governor in Council, shall set apart and appropriate one million of Acres of such Public

One Million of Acres to be set apart, for

the purposes
of forming the
said Fund.

Proviso: cer-
tain charges
to be first paid.

Present An-
nual Grant for
Schools to
cease when
the said Fund
shall produce
£50,000 a
year.

Proviso.
In the mean
time the in-
come of the
said Fund to
be applied to-
wards paying
the said An-
nual Grant.

Proviso: if the
said Fund pro-
duce less than
£50,000 in any
year, the defi-
ciency shall be
made up, *pro
tempore*.

Public Lands, in such part or parts of the Province as he may deem expedient, and dispose thereof on such terms and conditions as may by the Governor in Council be approved, and the money arising from the sale thereof shall be invested and applied towards creating the said Common School Fund: Provided always, that before any appropriation of the moneys arising from the sale of such Lands shall be made, all charges thereon for the management or sale thereof, together with all Indian annuities charged upon and payable thereout, shall be first paid and satisfied.

IV. And be it enacted, That so soon as a net Annual Income of fifty thousand pounds shall be realized from the said School Fund, the Public grant of money paid out of the Provincial Revenue for Common Schools, shall for ever cease to be made a charge on such revenue: Provided always nevertheless, that in the mean time the interest arising from the said School Fund so to be created as aforesaid, shall be annually paid over to the Receiver General, and applied towards the payment of the yearly grant of fifty thousand pounds now appropriated for the support of the Common Schools: Provided further, that after the said annual sum of fifty thousand pounds shall have been taken off the Consolidated Revenue, if the income arising from the said School Fund shall from any cause whatever fall short of the annual sum of fifty thousand pounds, then it shall and may be lawful for the Receiver General of the Province, to pay out of the said Consolidated Revenue, such sum or sums of money as may from time to time be required to make up such deficiency, the same to be repaid so soon as the said Income of the said School Fund shall exceed the said sum of fifty thousand pounds.

MONTREAL: Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.

1127

1849,—12° VICTORIÆ.

SECOND SESSION, THIRD PARLIAMENT.

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