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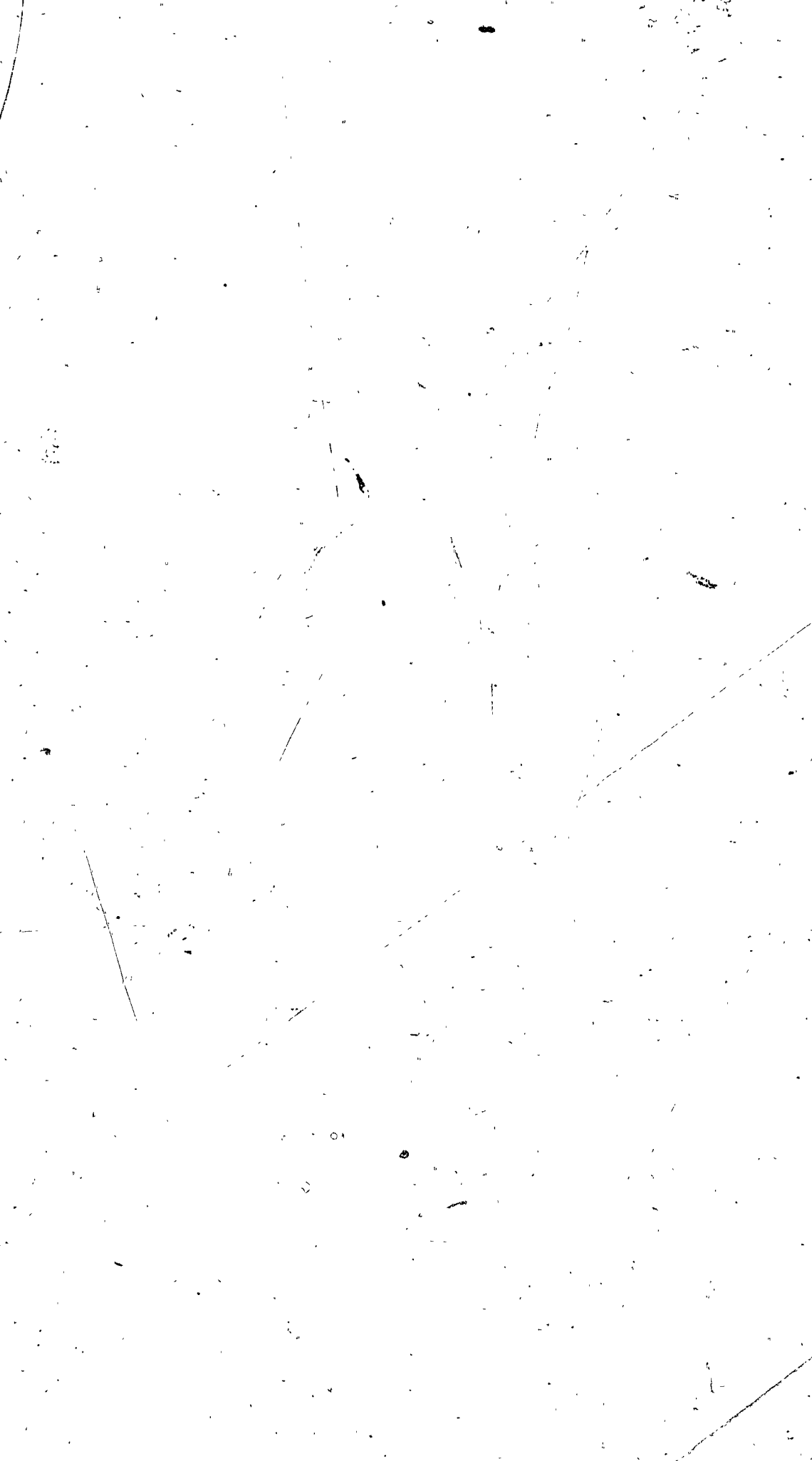
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THE
PERPETUAL ACTS
OF THE
GENERAL ASSEMBLIES
OF
HIS MAJESTY'S PROVINCE
OF
NOVA SCOTIA.

AS REVISED,
In the YEAR 1783.



HALIFAX, in Nova Scotia:
Printed and Sold by ANTHONY HENRY.

M.DCC.LXXXIV.

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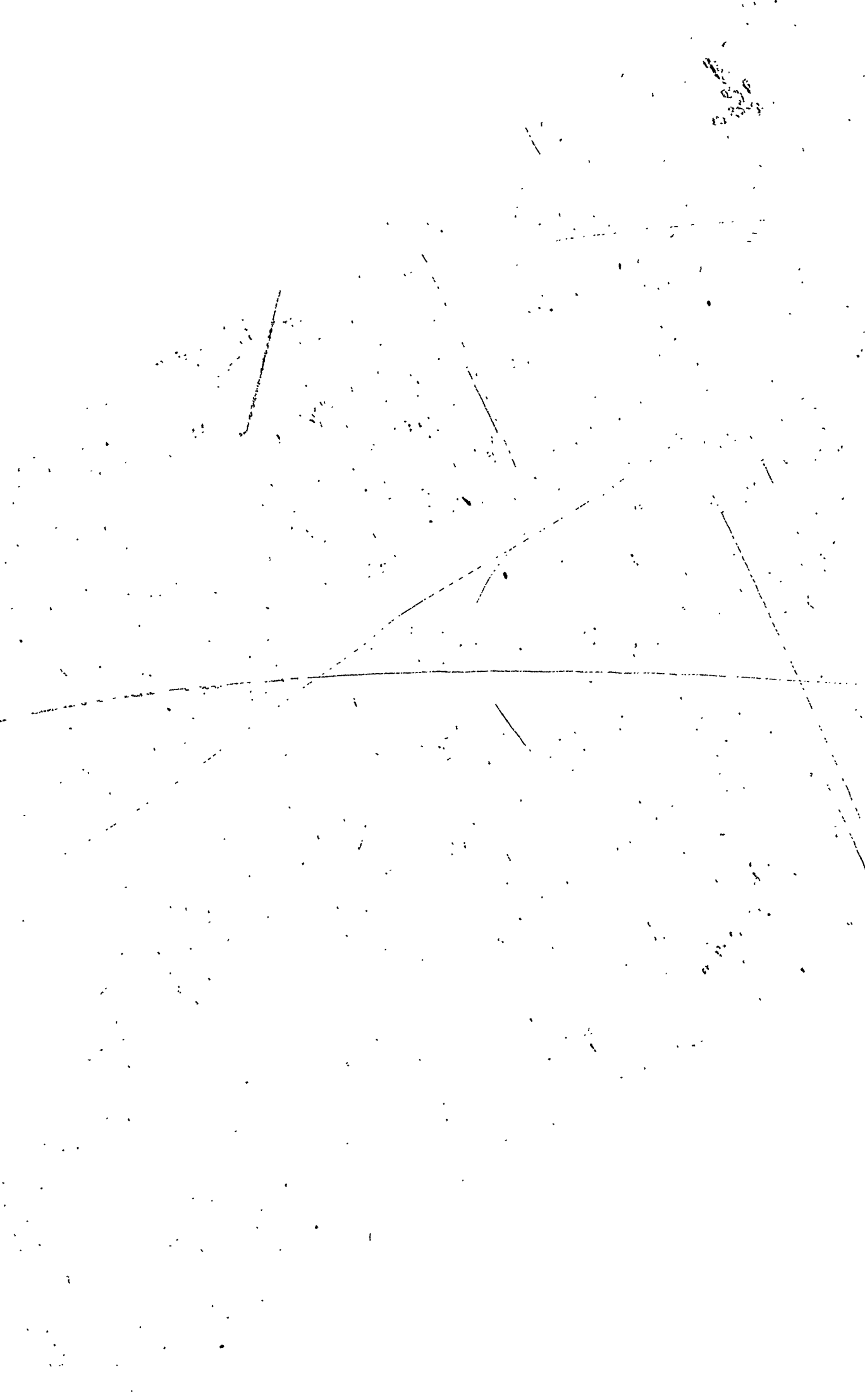
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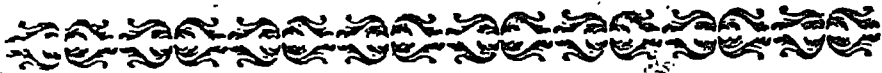
1784

House of Assembly 11th October, 1783.

THE Committee of his Majesty's Council and House of Assembly appointed to examine the Laws of this Province, which have been revised by ISAAC DESCHAMPS and JAMES BRENTON, Esq; having considered and examined the same Report, that they find them done with great Judgment and Accuracy, and that it would be right and proper to have the same put in Force accordingly.

HENRY NEWTON,
ALEX. BRYMER,
JOHN CUNNINGHAM,
THOMAS COCHRAN,
JOHN GEO. PYKE.





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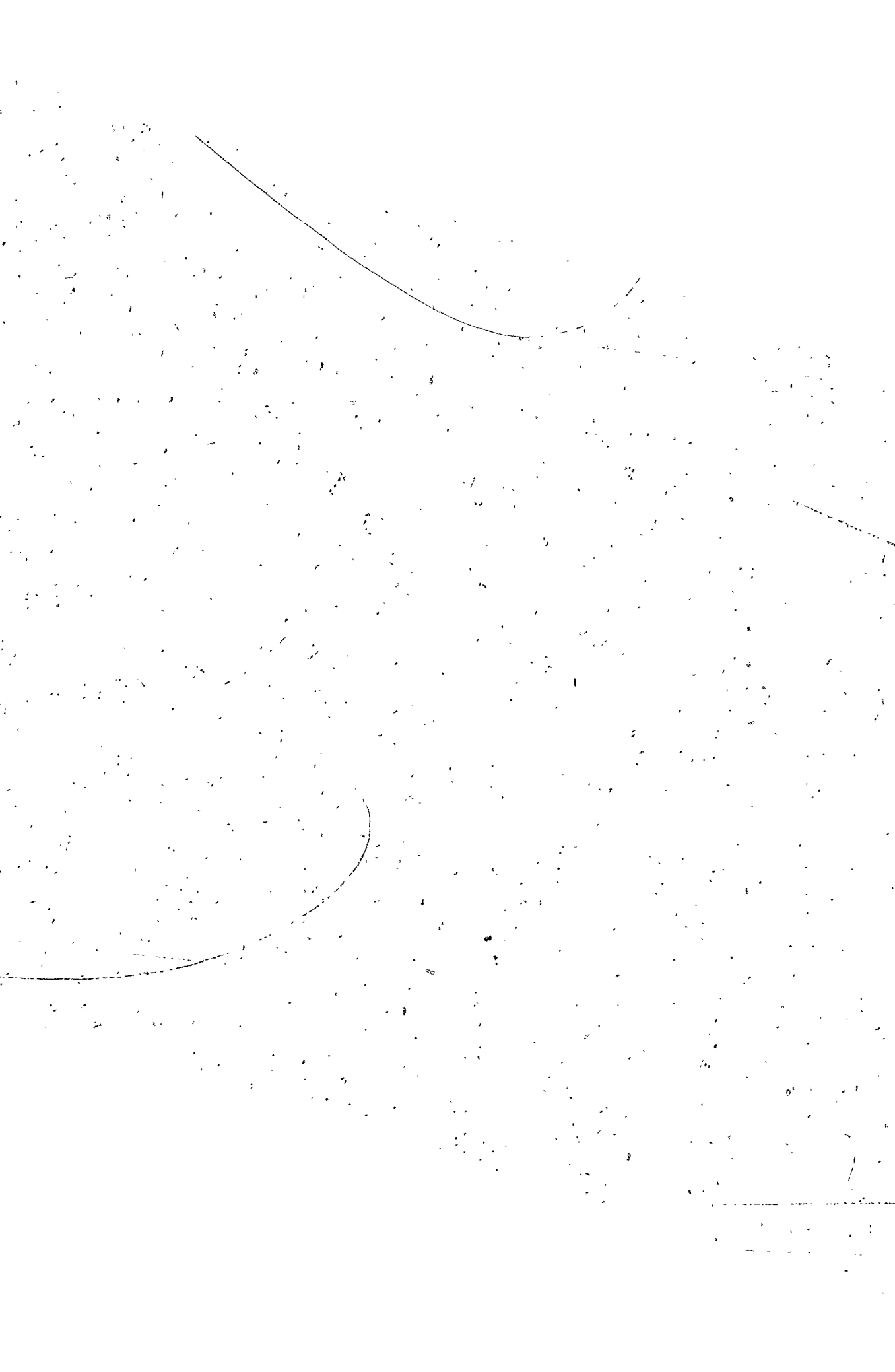
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E R R A T A.

- Pag. 10. Sect. 1. instead of the Words *as presented by said Act*, insert the Words *as before prescribed*.
Sect. 4. instead of the Words *prescribed by the aforesaid Act* insert *as before prescribed*.
Sect 4. instead of the Words *the said former Acts say all former Acts*.
Pag. 134. 3. Geo. 3. Ch. 1. the 1. Sect. should be omitted being repealed by 4. Geo. 3. Ch. 4.
Pages from 149 to 152 are twice printed but are distinguished by Letters *a.* and *b.*
The Act to prevent Forestalling and Monopolizing of Cord Wood is misplaced, and should be Page. 216.



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

C A P. I.

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

Exec.

C A P. II.

An Act for confirming Titles to Lands and Quieting Possessions.

*E*t Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That all Persons claiming or deriving any Right or Title to any Lands or Tenements, by Virtue of any Grants or Deeds entered in the Public Registry, of this Province or by Virtue of any Last Will or Testament, shall have, hold,

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

A

and

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

and enjoy such *Lands* and *Tenements*, according to the Tenor and Effect of such *Grants* or *Deeds* registered, and of such *Last Will* and *Testament*, whether the Estate be in his or their own Right, or in Right of, or in Trust for another; and that all Possessions by Virtue thereof shall be, and are hereby confirmed, any want of legal Form in such *Grants*, *Deeds*, or *Wills*, notwithstanding.

Provoist Marshal's Deeds under Writs of Execution confirmed.

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

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

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

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

IV. *Provided*

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

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

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

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

VIII. *Provided,* That the Register of Deeds and Conveyances in this Province shall, for the future, in lieu of any Memorial, Register all Deeds and Conveyances in Words at full Length: And that upon Proof of one credible subscribing Witness, to the due Execution of such Deed or Conveyance, the same shall accordingly be registred, without any other Ceremony, or Form heretofore used; any former Use or Custom to the contrary in any wise *notwithstanding*.

IX. 34. *Geo. 2. Ch. 4.* That the Register of Deeds and Conveyances in this Province, or his Deputy, shall and may duly register, all such Deeds and Conveyances of Lands in this Province, as shall have been made and executed in Great Britain or Ireland, or in any of His Majesty's Colonies or Plantations, distant from this Province, (tho' one of the Witnesses thereto should not come before him or his Deputy, to prove the same. *Provided* the Execution thereof shall appear to him, either to have been properly acknowledged by the Grantor himself named in such Deed or Conveyance, or be proved by the Oath of one of the subscribing Witnesses thereto, before some or one of His Majesty's Justices of the Peace of the Place where such Deed or Conveyance shall have been executed, and duly attested by him; and such Attestation being also authenticated (if in the Plantations) under the Hand and Seal of the Governor, Lieutenant Governor, or Commander in Chief of the Province, where the same shall be made, or of a Publick Notary there residing; and if

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

Debtors may prosecute an Action of Account against their Creditors.

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

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

Deeds to be registred at full length.

All Deeds, &c. to be registred, on Proof of the Execution thereof, either by the Acknowledgment of the Grantor, or by the Oath of one of the Witnesses, before a Justice of the Peace where such Deeds &c. have been executed.

in Great Britain, or Ireland, under the public Seal of some Corporation there, or by the Attestation and Certificate of some Notary Publick lawfully constituted, resident there, certifying that such Person so subscribing as a Justice of the Peace is really so, and that all Faith and Credit ought to be given to his Attestations.

Minors, &c. may sue within five years after Impediment removed.

XI. 1. *Geo. 3. Ch. 3.* That nothing in this Act, nor any Thing herein contained, shall extend or be construed to extend, to bar the Title of any Minor Feme Covert, or Person *Non Compos Mentis*, imprisoned, or absent from the Province but they shall be intitled to sue for and recover any Lands or Tenements within the Province aforesaid, to which they are intitled, within Five Years after such Impediment shall be removed, any Thing in the said Act to the contrary in any wise notwithstanding:

XI. 5. *Geo. 3. Ch. 8.* That the Register of Deeds and Conveyances in this Province, or his Deputy, shall and may demand and receive the Sum of Two Shillings for every Deed registered as aforesaid in Case the same do not exceed Two Hundred Words, and if more, then after the Rate of One Shilling an Hundred for all the Words contained in such Deed over and above the first Two Hundred Words; and the like Fees for the like Number of Words contained in any Copy, given out of the said Office; and for every Certificate one Shilling, two for every Search in the said Office One Shilling and no more, any Law, Usage, or Custom to the contrary notwithstanding:

Register of the province to appoint one or more deputies in the several Counties.

XII. 12. *Geo. 3. Ch. 5.* That it shall and may be lawful for the Register of this Province, to appoint one or more Deputies in the several Counties within the same, such Person being approved by the Governor, Lieutenant Governor, or Commander in Chief; and all Registers and Proceedings thereon, relating to the conveying of any Lands, Tenements or Hereditaments within the Limits of such Deputations, shall be, and they are hereby declared authentick and valid, and if any original Deed which may hereafter be registered by the Deputy Registers, shall be lost, and Proof thereof in Court being made, that then the Registry or Record of such Deed or Deeds shall be allowed to be good Evidence in any Court of Law or Equity within this Province.

If Deed is lost the copy from the Registry shall be allowed as evidence.

Where Deputy Registers appointed, Deed shall be registered.

XIII. *And be it also Enacted,* That where Deputy Registers shall be appointed, all Deeds or Conveyances shall be registered in the Office of the County or District within which, such Lands do lie.

An Extract & Certificate of all Deeds registered to be transmitted to the Register's Office at Halifax, within Peninsula of Nova Scotia, in three Months and to the Northward of said Peninsula in six Months.

XIV. *Provided always, and be it also Enacted,* That an Extract and Certificate of all Deeds and Conveyances, touching any Lands or Hereditaments, which shall be registered or recorded by such Deputies as aforesaid within the Peninsula of *Nova-Scotia*, shall once in *Three Months* be transmitted to the Register's Office at *Halifax*, and of all Deeds and Conveyances, touching any Lands or Hereditaments, lying to the Northward of the said Peninsula, within *Six Months* after the Registry of such Deeds and Conveyances, and the Register of Deeds at *Halifax*, shall note the Time of his receiving the Certificate, and duly enter the same in

in the Registry at Halifax, which shall be as effectual as if the original Deed had been by him first registered, as well for those which have been heretofore registered by the Deputy Registers, or shall hereafter be registered by Virtue of this Act. And if any Deputy Register shall fail to transmit such Extracts to the Register's Office at Halifax, as aforesaid, he shall forfeit and pay for the Use and Service of the Government of this Province, the Sum of five Pounds, to be recovered on Complaint of the Register of the Province, before any Court of Record within the same, and such Deputy so failing, shall moreover be liable to an Action at Law for all Damages sustained by the Party aggrieved.

Deputy Register failing shall forfeit £. 5. and liable to an Action by party aggrieved.

XV. And be it further Enacted, That all Deeds heretofore registered by the Deputy Registers in the several Towns and Counties in this Province, whereof Certificates of the Registry have been duly returned to the Register's Office at Halifax and enter'd there, or which shall on or before the first Day of November next be returned and enter'd there as aforesaid, shall be deemed good and valid, as tho' the same had been duly at first enter'd in the Registry at Halifax aforesaid. Provided, That nothing herein shall extend to affect any Attachment heretofore made, or Judgment which may have been recovered on any Lands or Hereditaments, a Certificate of the Registry whereof has not already been returned as aforesaid.

All deeds heretofore registered by the Deputies, and Certificates, returned, or which shall be returned before 1st Nov. next. good and valid.

C A P. III.

An ACT directing the Proceedings against forcible Entry or Detainer.

*** E it Enacted by his Excellency the Governor, Council and Assembly, and by the Authority of the same it is hereby Enacted, ***
B *** That upon complaint on Oath made before any two Justices of the Peace of any wrongful and Forcible Entry made into any Houses, Lands, Tenements or other Possessions or of any wrongful detainer or withholding with Force, or of any wrongful holding over of any Tenant after the Expiration of his Term in any Houses, Lands, Tenements, or other Possessions, after Possession demanded and due warning given to such Tenant as herein directed; to remove, it shall and may be lawful for such Justices by warrant to cause such Offender or Offenders, Tenant or Tenants or other Person in Possession to be arrested and detained in Custody until he she or they, find sufficient security for personal appearance at the next Supreme Court there to answer such Complaint.

Persons making forcible entry &c. to be arrested.

bound to appear at Supreme Court.

II. And be it further Enacted, That if it shall appear to said Court either by the confession of the party complained of or by the Verdict of a Jury then and there impanelled to try the Issue that a forcible

On proof by confession or Verdict.

ble Entry is made into any houses Lands, Tenements, or possessions or that a wrongful and illegal Detainer and with-holding of such Houses, Lands, Tenements and Possessions has been made after demand and Notice as aforesaid, then the said Court shall cause the said Houses, Lands, and Tenements to be re seized and the party complaining to be again put into Possession within ten days after such trial had or Confession made and the party grieved, shall and may by Action of Trespass on the Case recover treble rent and Costs of Suit against the defendant or defendants any Law, Usage, or Custom to the said contrary Notwithstanding.

Party to be re seized
within 10 days.
treble Costs to be
recovered.

Warning to be gi-
ven.

III. 1 Geo. 3. Ch. 2. *And be it also further Enacted*, That when any house Lands, or Tenements, shall be Let by the Year, three Months warning shall be given, & when by the Month one Months warning, and when by the Week one Weeks warning shall be given to the Tenant in Possession.

Saving the right of
Minors, &c.

IV. *Be it Enacted*, That nothing in this Act shall extend or be construed to extend to bar the right of any Minor. Feme Covert or person *Non Compos Mentis* imprisoned or absent from the Province. But they shall be intituled to sue for and recover any Houses, Lands or Tenements within the Province aforesaid to which they are intituled, within five Years after such impediment shall be removed.

C A P. IV.

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

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

Such Stills deemed
Public Nufances.

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

C A P. V.

An A C T for the Establishment of *Religious Publick*
Worship.

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

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

III. *Be*

Preamble.

Liturgy of the
Church of England
established.No Minister to of-
ficiate without a
Certificate from the
Bishop of London.

Others to be silenced.

Protestant Dissen-
ters excepted.and excused from
Rates for the Sup-
port of the establish-
ed Church of Eng-
land.

Parish of St. Paul
to comprehend all
the Lands in Town-
ship of Halifax.

Church Wardens
and Parishioners to
chuse 12 Vestry
Men,

who shall have the
same Powers as in
England.

Church Wardens
and Vestrymen to
be choosen on Mi-
chaelmas Day an-
nually.

Person refusing to
serve, forfeit £5.

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

to be paid every
Half Year.

III. 33. Geo. 2. Ch. 3. *Be it Enacted by His Excellency the Governor, Council and Assembly,* That the Parish of the Church commonly called and known by the Name of SAINT PAUL'S Church, shall extend and comprehend all the Lands lying and being in the Township of Halifax, hereafter to be known and called by the Name of the Parish of Saint Paul's, for and during such Time as the said Township shall consist of one Parish only, and that the Church Wardens and Parishioners of said Parish, are hereby impowered to meet as soon as convenient may be, Notice being first given of such Meeting, and the Place thereof, by the Rector of said Parish, and shall then and there chuse Twelve Officers of the said Parishioners for Vestry Men, in which Vestry shall be included the Ministers belonging to the said Church, and officiating therein; and the said Church Wardens and Vestry shall have and exercise all such Powers and Authorities, for the Benefit of the said Church, as are usually exercised by Church Wardens and Vestries in the Parish Churches in England, and shall to all Intents and Purposes be, and are hereby impowered, as a Body Politic incorporate, to sue and be sued, and to ask, demand and sue for the Rents due for the Pews of said Church, or other dues for the Benefit of the Ministers and Repairs thereof, and to take and receive all Gifts, Grants, either of Lands or Money, to and for the Use of the said Parish Church, and to improve the same for the Benefit and Advantage thereof, according to their best Discretion, and the true Intent and Meaning of the Donors: And the said Meeting of the Parishioners for the Choice of Vestry Men, shall hereafter be annually on Michaelmas Day, on which Day shall also be chosen annually the Church Wardens for the said Church, by the said Parishioners.

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

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

VI. *And be it further Enacted,* That for the greater Ease of the Parishioners, in paying in such Sums so granted, that for every yearly Grant for

for the Support of the Ministry, it shall be assessed by the Church Wardens and Vestry in two equal Assessments, one Half to be paid in the first Six Months, and the other Half in the last six Months.

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

Church Wardens to collect the Rates,

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

Persons over rated may appeal to the Sessions.

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

Rates to be made the First Monday after Easter Yearly.

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

Ministers of the Church of England, subject to the Penalties prescribed by the Canons and no other.

XI. *34 Geo. 2. Ch. 10.* That the said Ministers shall be and are hereby impowered to sue for and recover from the said *Church Wardens*; all such Sums as they may have received, or shall neglect to sue for and recover, for the Use and Benefit of said Ministers.

Ministers may sue the Church Wardens for Money received by them, &c. The Church Wardens, &c. of *St. Paul's*, to meet quarterly, and vote Money for Repairs of the Church.

XII. *7 Geo. 3. Ch. 1.* That the Church Wardens, Vestry, and Parishioners of the Parish of *St. PAUL'S*, shall meet Quarterly, *that is to say*, on the First Mondays in December, March, June, and September, Yearly, and when so met may, by a Vote of the Majority (a) of such Parishioners then present, as pay Scot and Lot (a) by being assessed

(a) *Burn's Eccles. Law 2. Vol. Pa. 477.*

At every Parish Meeting, the Minister or other Person or Persons appointed, H. Ibid. (b) 1. Stat. lib. 373. Burke's Eccles. Law 1 Vol. 268, 269. and for the Arrears of Salaries of the Organist, &c.

such Vote to be binding on all the Parishioners, not exempted by Law. (c) *Burn's Eccles. Law 2. Vol. 477.* and to be assessed by the Church Wardens and Vestry, and collected by the Church Wardens.

The Assessors to be assessed by three Parishioners to be appointed at the Meeting.

(d) *Burn's Eccles. Law 1. Vol. 273.*

Appeal allowed to Persons aggrieved.

This and the former Acts to extend to all Churches which shall be erected hereafter.

assessed for paying any Contributions for and towards the Support of the Church of England, allot and order such Sums of Money as they may judge necessary (b) for and on Account of Repairs, and for the usual Goods, Stock Furniture, Ornaments, and Bells of the Church, and for Arrears of Salary and other allowances to the Organist, Clerk and Sexton of the same, and to the Clerk of the Vestry, and for all other necessary future Church Repairs, Goods, and Ornaments, as other Rates are directed to be levied, collected, and received, by the afore recited Act or Acts; and likewise for half yearly Assessments and Payments of the future growing Salaries to the Organist, Parish Clerk and Sexton, and Clerk of the Vestry; which Vote or Votes shall be binding on all the Parishioners belonging to the said Parish Church of St. Paul's, and others dwelling in the said Parish, not exempted by Law from paying towards the Support of the Church of England (c); and shall be assessed by the Church Wardens and Vestry in just and equal Proportions on every Parishioner, according to their several Abilities, and shall be collected, levied, and received, by the Church Wardens as presented by the said Act.

II. *Provided always, and be it Enacted,* That the said Assessors shall not tax themselves (d), but they shall be assessed by at least three of the other Parishioners, who shall be named for that purpose by the Parish at their Meeting for voting the Sums to be assessed.

III. *Provided also,* That if any Person shall think himself over rated or otherwise aggrieved, he may appeal for Redress in Manner prescribed by the afore recited Act, in Case the said Rate shall exceed the Sum of Five Shillings, or if any Sum be unduly levied upon the said Parishioners.

IV. *And be it further Enacted,* That when, and so often, as any other Church or Churches shall be erected within the said town of Halifax, or any other Town or Towns of the Province, and that Church Wardens and Vestries shall be appointed in the same, that this Act and the said former Acts, and every Clause, Direction, Authority and Power, in the same contained, shall extend and be in Force for all such Church or Churches, as may so hereafter be erected and established, in the same Manner as if the said Church or Churches had been expressly named in this and the said Acts as aforesaid.

C A P. VI.

An A C T for Establishing and Regulating a
M I L I T I A.

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

Preamble.

Persons liable to Train.

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

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

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

Persons to attend Duty where inlisted.

IV. " That Regimental Musters shall be made out once in Six Months or as often as shall be required by the Governor or Commander in Chief of the Province for the Time being, and every
" Captain

2. Geo. 3. Ch. 6

“ Captain or chief Officer of any Company of Militia having received
 “ orders for that purpose from the Officer commanding any Regi-
 “ ment of Militia or any other Corps or body of Militia who are
 “ required to give Orders accordingly, shall be obliged on Penal-
 “ ty of *Five Pounds* to draw forth his Company or cause them to
 “ be drawn forth for exercising them in Motions, the use of Arms
 “ and Shooting at Marks or other Military Exercises, *Eight Days*
 “ in each Year and no more: to be regulated at the Discretion of
 “ such Commanding Officer, according as will best suit with the Con-
 “ veniency of the People, and as will give the least interruption to
 “ their Labour and industry: And every Person liable to be trained
 “ having three days Notice thereof and not appearing and attending
 “ the same shall, for each days neglect, pay a fine of *Five Shillings*.”

Militia Soldiers
 how to be armed.

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

Regimental Musters
 and Training of
 Companies.

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

VII. That the Commission Officers of any Company, or the major
 Part

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

Power of Commission Officers.

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

Military Watches.

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

Penalty for not attending Military Exercises.

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

Persons exempted from Trainings.

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

Members of the Council exempted from Watches and Warding.

D

XII. That

Commission Officers
to appoint Serjeants
and Corporals.

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

View of Arms to be
made twice a Year.

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

How Persons unable
to buy Arms, may
be provided.

XIV. That if any Person who is by Law obliged to provide Arms and Ammunition, cannot purchase the same by such Means as he hath, if he bring to the Clerk of the Company the full Value thereof, according to the Appraisement of the Clerk and two other Persons mutually chosen, he thereupon shall be excused from the Penalties for want of Arms and Ammunition, until he can be provided, which the said Clerk shall provide as soon as may be, by Sale of such Goods, and render the Overplus, if any be; but the Party shall notwithstanding give his personal Attendance upon all occasions as other Militia Soldiers, until he be supplied, and at such Times shall perform any proper service he may be put upon by the Captain or chief Officer of the Company he belongs to: But if the Person be adjudged unable to buy Arms, or to lay down the Value proposed, if he be a single Man, he shall be put out to Service by any two of His Majesty's Justices of the Peace, to earn wherewith to buy Arms and Ammunition.

Penalty 40s. for re-
fusing to serve as
Clerk.

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

Clerk's Oath.

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

So help you G O D.

XVI. And.

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

His Allowance.

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

Meeting of the Chief Officers of the Regiment,

their Power.

XVIII. That no Clerk *ex officio* make Distrain for any Fine until *Six Days* after the Offence committed, that so the Party may have Opportunity to make Excuse, if any he hath, why he should not pay the Fine, and every Clerk that neglects or refuses to account or make Payment as by this Law is provided, he, by a Warrant from the chief Officer of the Company, directed to the Constable, may be distrained on for so much as he hath or should have collected or distrained for.

Clerk not to distrain *ex officio*, until six Days after the Offence committed.

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

Penalty £5. on Officers disobeying their Superior Officers.

XX. That an Alarm at the Citadel in the Town of *Halifax*, being made

Alarm, how to be made.

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

Penalty 40s. for firing Guns. &c. after Sun-set at *Halifax*, &c.

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

Offender to the Gaol, there to remain until Payment be made of the same.

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

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

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

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

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

Prosecution to be within three Months

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

Fines how to be recovered & disposed of.

XXVI. *2d. Geo. 3. Chap. 6.* That any Person who shall be nominated and appointed to serve as a Serjeant or Corporal, as directed in the above mentioned Act, and shall refuse to serve, shall pay Forty Shillings Fine, and another shall be chosen in his Room and so on until one do accept.

Penalty 40s. for refusing to serve as Serjeant or Corporal.

XXVII. *And be it further Enacted*, That if any Serjeant or Corporal shall be guilty of any Neglect of Duty, or shall be drunk, or be disorderly while on Duty, such Serjeant or Corporal shall forfeit and pay the Sum of Ten Shillings, or to be committed and set to hard Labour for Forty Eight Hours which said Fines shall be recovered and applied in the same Manner, as directed by the above mentioned Act for a Person refusing to serve as Clerk.

And 10s. for Neglect of Duty.

XXVIII. *And Whereas there are sundry supernumerary Militia Officers commission'd in this Province, who are not appointed to any particular,*
E *Companies;*

Supernumerary Commission Officers.

Companies; Be it Enacted, That such Officers shall not be obliged to do Duty as Non Commissioned, or Private; But shall nevertheless hold themselves in Readiness to do Duty according to their Rank when ordered by the Officers commanding in the their respective Districts.

Drummers to remain in their Companies, altho' not resident in their District.

XXIX. *And be it further Enacted, That if any Person be appointed to be a Drummer in any Company, he shall remain in the said Company, notwithstanding he may not reside in the District which composes the same. Provided, That no Drummer shall be obliged to serve in any Company, but in the Town where he resides, unless ordered on a March.*

XXX. 22. *Geo. 3. Ch. 5th. Sect. 1. That all such Fines and Forfeitures as have or shall and may be incurred in Pursuance of former Acts, shall be levied by Warrant of Distress and Sale of the Offenders Goods and Chattels, under the Hand and Seal of the Officer commanding the Regiment, Troop, or Company, to which the Offender shall belong, directed to the Sheriff of the County, his Deputy, or the Constables where the Offence shall be committed, and be paid to such Commanding Officer.*

XXXI. *Sect. 2. That all Commitments for Disobedience of Order or Neglect of Duty, which are directed by any former Acts to be to the House of Correction, shall be to the Goal of the County, where the Offence shall be committed, and that the Warrant for that Purpose shall be granted in like Manner, and be directed as aforesaid, that Execution thereof may be done.*

Militia Act to extend throughout the Province.

XXXII. *And be it further Enacted, That the said Act, intituled, An Act for establishing and regulating a Militia, together with the Additions and Amendments thereto, be construed and are hereby declared, to extend all over this Province.*

C A P. VII.

An ACT to prevent forestalling the Market.

*** HEREAS large Quantities of live Stock, fresh Provisions, and other Articles, are imported into this Province for Sale from the neighbouring Colonies, and divers Persons make a Practice of engrossing the same immediately upon the Arrival thereof, to the great Prejudice of the Inhabitants; Be it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same

Preamble.

same it is hereby Enacted, That all Kinds of live Stock, (Oxen and Sheep excepted) all dead fresh Provision, Grain, Hay, Roots, or Garden Stuff, which shall be imported for Sale into any Port of this Province, after Publication hereof, shall, by the Importers thereof, be brought to some Public Wharf, and there openly exposed to Sale, for Forty Eight Hours; and public Notice shall be given thereof through the Town or Place where the same shall be so imported, by [the common Cryer: And no such live Stock or dead fresh Provision whatsoever, Grain, Hay, Roots, or Garden Stuff, shall, during the said Forty Eight Hours, be sold, or contracted for in Gros, to or with any Person or Persons whatsoever, on Penalty of the Forfeiture of the Article or Articles so sold, or bought, or contracted for, or the Value thereof, upon Conviction by the Oath of one Credible Witness before any two of His Majesty's Justices of the Peace, to be levied by Warrant of Distress, under the Hands and Seals of the said Justices; One Half of such Forfeitures to be to the Use of the Informer, and the other Half to the Use of the Poor of the Place where such Forfeiture shall be incurred.

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

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

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

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

Notice to be given thereof by the Cryer.

not to be ingrossed, on Pain of forfeiting the Value

Not to extend to Flour, Biscuit or Fish

Dead fresh Provision, perishing, excepted.

Prosecution within Ten Days.

C A P. VIII.

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

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

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

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

Feme Covert, &c.
excepted.

No Devise in Wri-
ting to be revocable
but by another Will,
&c.

3. Mod. 260.

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

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

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

III. *And be it further Enacted by the Authority aforesaid*, That from
and after the *First Day of January*, in the Year of our Lord *One
Thousand Seven Hundred and Fifty nine*, no *Nuncupative Will* shall be
good, where the Estate thereby bequeathed, shall exceed the Value
of *Thirty Pounds*, that is not proved by the Oath of *Three Witnesses*
(at the least) that were present at the making thereof, nor unless it
be proved that the *Testator*, at the Time of pronouncing the same,
did bid the Persons, present, or some of them bear Witness, that such
was his *Will*, or to that Effect; nor unless such *Nuncupative Will* was
made in the Time of the last Sickness of the Deceased, and in the
House

House of his or their Habitation or Dwelling, or where he or she hath been resident, for the Term of *Ten Days* or more, next before the making of such *Will*, except where such Person was surpris'd or taken sick being from his own House, and died before he returned to the Place of his or her Dwelling.

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

Eng. Stat. 29 Car. 2.
c. 3. Sect. 20.
Not to be proved
after Six Months,
unless, &c.

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

Eng. Stat. 29 Car. 2.
c. 3. Sect. 21.
Letters Testamentary,
&c. not to
pass any Court till
14 Days after the
Testator's Decease,
&c.
Eng. Stat. 4 & 5 An.
c. 16. Sect. 14.

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

Eng. Stat. 29 Car. 2.
c. 3. Sect. 22 & 23.
No Will in Writing
concerning Personal
Estate, to be
repealed, or changed
by Word of
Mouth only, unless
committed to Writing
in the Life of
the Testator.

Soldiers and Seamen
excepted,

Not to extend to the
Probate of Wills,
concerning Personal
Estates, vested in
the Governor.

Eng. Stat. 29 Car. 2.
c. 3. Sect. 24.

VII. *And be it further Enacted by the Authority aforesaid*, That if any *Executor* or *Executors* of the *Will* of any Person deceased, knowing of their being so named and appointed, shall not, within the Term of *Thirty Days* next after the Decease of the *Testator*, cause such *Will* to be proved, and recorded in the Register's Office, of the same County where the deceased Person last dwelt, or present the said *Will*, and declare his or their Refusal of the Executorship; every Executor so neglect-

Executors, know-
ing of their being
appointed, to prove
Wills in 30 Days,
&c.

of Penalty of 5l.
per Month.

ing his or her Trust and Duty in that Behalf, (without just Excuse made and accepted for such Delay) shall forfeit the Sum of *Five Pounds* every *Month*, from and after the Expiration of the said *Thirty Day*, until he or they shall cause Probate of such *Will* to be made, or present the same as aforefaid: Every such Forfeiture to be had and recovered by Action of Debt, in the *Inferior Court of Common Pleas* in the same County, at the Suit of any of the Heirs or Creditors, and for the Use of him or them that shall inform and sue for the same. And upon any such Refusal of the Executor or Executors, the Judge shall commit Administration of the Estate of the Deceased, with the *Will* annexed, unto the Widow, or next of Kin to the Deceased, and upon their Refusal, to one or more of the principal Creditors as he shall think fit.

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

Penalty for suppressing Wills.

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

Legacies ascertained, recoverable at the Common Law.

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

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

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

and liable to account in like Manner as Administrators.

XI. *And*

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

Residuary Legatee may bring Action of Account against Executors.

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

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

and Distribution of Estates of Intestates.

XIII. And be it further Enacted, That such Estate wherewith such Child or Children, have been advanced in the Lifetime of the *Intestate*, shall be accounted for upon the Oath of such Child or Children, before such *Judge of probate of Wills*, and for granting *Letters*

Children advanced in the Lifetime of the Intestate.

of Administration, or by other Evidence to the Satisfaction of the Judge; and in Case of Refusal to Account upon Oath, such Child or Children, so refusing, shall be debarred of any Share in the Estate of the Intestate.

Division of Lands.

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

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

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

Of Portions of Children dying unmarried or under Age.

1. Vent. 316.

1 Salk. 250. Raym. 496.

of

Judge of Probate, if Debts afterwards be made to appear, to refund and pay back to the Administrator, his or her rateable Part thereof, and of the Administrators Charges.

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

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

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

XIX. *And be it further Enacted*, That in case that Personal Assets shall be deficient for the Payment of any Debts or Legacies, and it shall be found necessary by any Executor or Administrator to make Sale of any Part of the Real Estate of the Deceased, for the Payment of any Debts or Legacies, such Executor or Administrator shall apply to the Governor or Commander in Chief for the time being, and His Majesty's Council of this Province, who are hereby authorized, and impowered to take Cognizance thereof, and to grant a Licence for the Sale of such Part of such Real Estate, as may be most convenient for the Payment of such Debts or Legacies, and before any Sale be made of any Real Estate, the Executor or Administrator shall give Thirty Days publick Notice, by posting up Notifications in the most publick Places in the Town where the deceased Person last dwelt, and in the publick Prints, if any such there be; and whoever will give most shall have the Preference in such Sale. And in Case the Estate of such Intestate shall be Insolvent, the Executor or Administrator shall make like Application to the Governor or Commander in Chief for the Time being, and His Majesty's Council, for an Inquiry, and for the Appointment of Commissioners to inquire into such Insolvency, and to examine and settle the Claims of all Creditors, and the Amount of the Estate of such Insolvent, and to authorize such Executor or Administrator to sell all the Lands and Tenements of such Insolvent, and to divide the Produce of the whole of such Estate, in due Proportion to and among the Creditors.

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

Persons aggrieved may appeal to the Governor and Council.

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

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

34. Geo. 2. Ch. 5.

In case of Insolvent Estates, the Governor or Commander in Chief for the Time being, and his Majesty's Council shall appoint Commissioners to settle the Claims of Creditors, & to sell Real Estate to pay them.

Executors to give Security for a just Distribution.

XX. 34. *Gea. 2. Chap. 5. Sect. 2.* And be it further Enacted, That every Executor or Administrator, who may, be authorised and impowered to make Sale of any Real Estate, shall, before such Sale made, give Bond by himself, or his lawful Attorney, with Two Sureties, at the Office of the Register of the Court of Probates, in the County where such Real Estate shall lie, for the just and legal Distribution of the Monies arising from such Sale, in the full Value which, by the Report of the Commissioners for that Purpose appointed, shall be certified to be necessary to be raised by such Sale.

Lands, &c. sold by Virtue of this Act, to be the absolute Property of the Purchaser.

XXI. Sect. 3. *And be it further Enacted by the Authority aforesaid,* That all Lands, Tenements, or Hereditaments; sold by any Executor or Administrator by Virtue of the Act aforesaid, shall become the absolute and undoubted Right and Property of the Purchaser or Purchasers thereof, from and after the Time of such Sale.

C A P. IX.

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

Preamble.

XXXX *HEREAS* for the better carrying on the present War, it *W* has been His Most Gracious Majesty's Royal Will and Pleasure, *W* from Time to Time, to send large Squadrons of His Ships of War into North-America: And Whereas the Harbour of Halifax in this His Majesty's Province of NOVA-SCOTIA, from its Situation, great Convenience, and Safety for Capital Ships, hath always hitherto been, and probably during the War, will continue to be the Rendezvous of his Majesty's Fleet in that Part of His American Dominions. And Whereas many and great Inconveniencies have arisen to the service of the Royal Navy, by Persons enticing, assisting, harbouring and concealing Seamen deserting from His Majesty's Ships, and by buying the Slop Cloaths issued to Seamen on board His Majesty's Ships; by means whereof they become subject to Impositions, and are induced to sell their necessary Cloathing to procure Spirituous Liquors, whereby they are rendered unfit for Duty, become Diseased and Die for want of proper Apparel to defend them against the Inclemencies of the Weather, and by Means of such Practices, the Commanders of His Majesty's Ships of War have been under a Necessity of detaining such Seamen on board, not only to the great Prejudice of their Health

Health by such Confinement and want of Exercise, but also to the Disadvantage of the Province, from the want of the Assistance and Labour of such Seamen. For remedy whereof, Be it enacted by His Excellency the Governor, Council and Assembly, and by the Authority of the same it is hereby Enacted, That if any Person shall entice any Seaman or Marine to desert, or harbour, conceal, or assist any Deserter from any Ship of War, knowing him to be such, the Person so offending shall forfeit the Sum of Twenty Pounds, on Conviction by one or more credible Witnesses, before any three Justices of the Peace, (*quorum unus*) for the Use of His Majesty's Government, to be levied by Distress, and for want of such distress the Person so offending shall be committed to His Majesty's Goal, there to remain without Bail or Mainprize for the Space of six Months, or till such Time as the said Fine shall be paid.

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

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

Penalty of £5. buying, &c. any Slop Clothing.

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

Any Person may apprehend Seamen or Marines selling their Cloaths.

IV. And be it further Enacted by the Authority aforesaid, That on Information made on Oath, before any of His Majesty's Justices of the Peace, by any of the Officers of His Majesty's Ships of War, That

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

one

one or more of the *Seamen* in His Majesty's Service have deserted or absconded, who there is Reason to believe lie concealed in some Dwelling or Outhouse, where the said Officer has been refused Admittance, that then it shall and may be lawful for such Justice of the Peace, before whom such Complaint is made, to issue his Warrant to some one or more Constables empowering him or them, in the Day Time, to search for said Deserters or Absconders, in any Dwelling or Outhouse that shall be suspected for Concealing said Deserters or Absconders, accompanied by one Officer only, either *Lieutenant* or *Midshipman*, and no other *Seamen* or *Marine* with him, and in Case any Master or Mistress of any Dwelling-House or Outhouse in this Province, shall refuse Entrance to said Constable or Constables, so empowered by Warrant as aforesaid to search for said Deserters or Absconders, they shall forfeit the Sum of *Twenty Pounds*, upon Conviction, to be levied by Warrant of Distress under the Hand and Seal of two of His Majesty's Justices of the Peace, from off the Offenders Goods; and for Want of such Distress, shall be committed to His Majesty's Goal for *six Months*; and that it shall and may be lawful for any of His Majesty's Justices of the Peace, who are hereby required upon Information on Oath as aforesaid in the Night Time in his own Person, attended with the Constables, accompanied by one Officer, either *Lieutenant* or *Midshipman*, and no other *Seaman* or *Marine* with him, to demand Entrance into any Dwelling House or Outhouse in this Province, on Suspicion of Deserters or Absconders being concealed there, and the Master or Mistress refusing Entrance to such Justice of the Peace so demanding Entrance in the Night Time, shall forfeit the Sum of *Twenty Pounds*, to be levied as aforesaid upon Conviction; and for Want of such Distress, to be committed to His Majesty's Goal for *six Months*; the aforesaid Sums to be for the Uses of this Government: And that the Person or Persons so apprehended supposed to be Deserters or Absconders from His Majesty's Service, shall be committed to His Majesty's Goal, until Proof is made before one or more of His Majesty's Justices of the Peace, of his or their Desertion or Absconding, and then to be delivered up to such Officer or Officers of His Majesty's Navy, who shall make Demand of said Deserter or Deserters. And in Case said Person or Persons so committed are not Deserters, Absconders, or shall not be in His Majesty's Service, then such Person or Persons to be discharged without Cost.

Constable to search in Company of one Officer only.

Persons refusing Admittance forfeit £20.

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

Deserters to be committed till delivered to their Officers.

Act made perpetual.

V. 34. Geo. 2. Chap. 1. That the aforesaid Act shall be, and the same is hereby made perpetual.

C A P. X.

An ACT relating to *Treasons* and *Felonies*.

*E*t *Enacted* by His Excellency the Governor, Council, and
 B *Assembly*, and by the Authority of the same it is hereby *Enacted*,
 That if any Person or Persons shall compass or imagine
 the Death of the King, or shall levy War against Him
 or adhere to his Enemies, or give them Aid or Comfort, or shall
 forge or counterfeit the King's Money, being Gold or Silver Coin
 of England or of Great-Britain, or shall counterfeit the King's Great
 Seal or Privy Seal, or the Seal of this Province, and shall thereof be
 duly convicted, the Person or Persons so offending are hereby de-
 clared, and shall be adjudged to be *Traitors*, and shall suffer as in Ca-
 ses of *High Treason*; and that all *Treasons* declared by the Acts of
 Parliament of England or of Great Britain, shall be deemed and ad-
 judged to be *Treasons* within this His Majesty's Province, and none
 other, and that such Acts of Parliament as directed the Proceed-
 ings and Evidence against, and Trials of such *Traitors*, shall have
 their full Force and Effect, and be observed as the Rule in all Trials
 for *Treason* in this Province.

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

“ That the said Proviso is meant and intended, and shall be construed,
 “ deemed and taken to extend only to the felony of Maiming as above
 “ declared and expressed.”

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

H

IV. *Provided*Treason.
Eng. St.at. 25. Ed. 3.
Stat. 5. c. 2. & Eng.
Stat. 1. Mar. c. 1.
Assembling to alter
Laws, &c. Treason,
Kel. 75-77-Brit. Stat. 7. Ann.
c. 21
Eng. Stat. 7. Will. 3.
c. 3.
Witnesses in Treason,
Kel. 49.Murder & Maiming,
Felony without
Clergy.Eng. Stat. 1. Ed. 6.
c. 12. Stat. 10.Eng. Stat. 5. Her. 4.
c. 5. & Eng. Stat.
22. & 23. Car. 2.
c. 1.8. Geo. 3. Chap. 3.
Sect. 4.Stabbing.
Felony without
Clergy.Eng. Stat. 1. Jo. 1.
c. 8.

Manslaughter by
Misfortune &c.

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

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

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

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

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

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

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

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

to have been committed by and with the Consent of such Woman or Infant.

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

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

Affault with Intent
to ravish; Pillory, &c.

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

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

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

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

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

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

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

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

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

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

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

Stealing Bills of
Exchange, &c.
*Eng. Stat. 12. 2. G. 2.
c. 25.*

the

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

Not to work Corruption of Blood &c.

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

Receivers of Stolen Goods, Accessaries. *Eng. Stat. 3 Will & Ma. c. 9. Sect. 4.*

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

Punishable as for Misdemeanor, though Principal be not convicted. *Eng. Stat. 1. An. Stat. 2. c. 9. Sect. 2.*

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

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

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

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

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

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

Building,

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

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

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

XXIII. 15. Geo. 3. Ch. 7. *Be it Enacted, by the Governor, Council and Assembly,* That it shall and may be lawful for the Court before whom any Offender shall be so convicted as of *Petit Larceny*, to punish such Offender by Whipping or Imprisonment or Commitment of such Offender to the House of Correction, there to be put to hard labour, the said Imprisonment or Commitment to the House of Correction not to exceed Three Months, and within that Space for such Time as the Judges in their Discretion shall think fit.

XXIV. *And be it further Enacted,* That all Monies, Goods, Chat-

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

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

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

Larceny & Felony.

In Convictions of
petit larceny Court
empowered to punish
Offenders by whip-
ping or imprison-
ment.

Restitution of Stolen Goods.

Eng Stat. 21. Hen. 8. c. 11. 2. Hæck. P. C. c. 23. Sect. 49—58.

Where no Owner appears, Goods to be forfeited.

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

Not to debar the Party of his Action

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

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

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

And discharged out of Prison.

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

tels, Merchandizes, or Stores, found in Possession of any *Burglar, Housebreaker, Robber, Thief, or Purloiner*, shall be delivered by the Justice of Peace who shall take the Examination of such Offender, into the Custody of the Provost Marshal or his Deputy, or Constable of the Town where the Offence shall be committed, who shall be answerable for the same until the Offender be convicted; and the Judge or Judges of the Court, wherein such Offender shall be convicted, shall order the said Money, Goods or Stores, to be restored to the lawful Owners thereof; and where no Owner shall appear to claim the same, they shall be adjudged to be forfeited.

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

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

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

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

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

for such convenient Time as the said *Judge or Judges* in their Discretions, shall think fit, so as the same do not exceed *One Year's* Imprisonment, or to punish them by publick Whipping.

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

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

XXXII. " And if Person or Persons indicted of any Offence for
" which, by Virtue of this Act they are excluded from the Benefit
" of Clergy, or where the Benefit of Clergy shall be allowed, shall
" stand mute, or will not answer directly to the *Felony*, Judgment shall
" be pronounced, and Execution awarded, as if such Person or Persons
" had been convicted of such Offence by Verdict or Confession; and
" if any Prisoner indicted of said Offences shall challenge peremptorily
" above Twenty of the *Jury*, such Challenge shall be overuled, and
" the Jurors shall be Sworn for the Trial of such Prisoner, as if no
" such Challenge had been peremptorily made.

XXXIII. *Provided nevertheless*, That no Man who hath had the Benefit of the Clergy allowed him, nor any Woman who hath had the Benefit of this Act, shall have the Benefit of Clergy or of this Act,

Women to be punished in the same Manner as a Man. *Eng. Stat. 3. & 4. Will. and Ma. c. 9. Sec. 6, 7.*

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

34. *Geo. 2. Ch. 9.*

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

Eng. Stat. 4 G5.
Will. & M. c. 24.
Sec. 15.

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

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

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

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

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

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

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

Former Convictions confirmed.

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

Saving for Judgments depending.

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

The Trial of a Murderer that strikes or poisons a Man in one County which dieth thereof in another County.

XXXIX. 8. Geo. 3. Ch. 3. Be it Enabled by the Lieutenant Governor, Council, and Assembly, That where any Person or Persons shall be feloniously stricken or poisoned in one County, and die of the same stroke or poisoning in another County, that then an Indictment thereof found by Jurors of the County where the Death shall happen, whether it shall be found before the Coroner upon the

the Sight of such dead Body, or before the Justices of the Peace, or other Justices or Commissioners which shall have Authority to enquire of such Offences, shall be as good and effectual in the Law as if the stroke or poisoning had been committed and done in the same County where the Party shall die, or where such Indictment shall be so found; any Law or Usage to the contrary notwithstanding: And that the Justices of *Oyer and Terminer* and *Goal Delivery*, in the same County where such Indictment at any Time hereafter shall be taken, shall and may proceed upon the same in all Points, as they should or ought to do, in Case such felonious Stroke and Death thereby ensuing, or poisoning and Death thereof ensuing, had grown all in one and the same County. And that such Party to whom Appeal of Murder shall be given by the Law may commence, take, and sue Appeal of Murder in the same County where the Party so feloniously stricken or poisoned shall die, as well against the Principal and Principals, as against every Accessary to the same Offences, in whatsoever County or Place the Accessary or Accessaries shall be guilty of the same. And further, the Justices before whom any such Appeal shall be commenced, sued, and taken, within the Year and Day after such Murder and Manslaughter committed and done, shall proceed against all and every such Accessary and Accessaries, in the same County where such Appeal shall be so taken, as well concerning the Trial by the Jurors, or Twelve Men of such County where such Appeal or Appeals shall be hereafter taken upon the Plea of Not Guilty pleaded by such Offender or Offenders, as otherwise.

Where an Appeal of Murder in the Case aforesaid shall be pursued.

Appeal against the Accessary.

XL. Sect. 2. *And be it further Enacted,* That where any Murder or Felony hereafter shall be committed and done in one County, and another Person or more shall be Accessary or Accessaries in any Manner of wise to any such Murder or Felony in any other County, that then an Indictment found or taken against such Accessary and Accessaries upon the Circumstance of such Matter before Justices of *Oyer and Terminer*, and *Goal Delivery*, appointed to enquire of Felonies in the County where such Offences of Accessary or Accessaries in any Manner of wise shall be committed or done, shall be as good and effectual in the Law, as if the said principal Offence had been committed or done within the same County where the same Indictment against such Accessary shall be found. And that every such Accessary and other Offenders above expressed, shall answer upon their Arraignments, and receive such Trial, Judgment, Order, and Execution, and suffer such Forfeitures, Pains and Penalties, as is used in other Cases of Felony; any Law, or Custom to the contrary heretofore used in any wise notwithstanding.

Trial of an Accessary in one County to a Murder or Felony done in another County.

XLI. Sect. 3. *Be it Enacted,* That if any Woman with Malice prepense, shall kill or procure any other Person or Persons to kill her Husband; or if any Servant with Malice prepense, shall kill or procure any other Person or Persons to kill his or her Master or Mistrefs; the Persons so offending, their Counsellors, Aiders, and Abettors, privy to the Offence, shall upon due Conviction, be adjudged guilty of Petit Treason, and suffer Death without Benefit of Clergy accordingly.

*Eng. Stat. 25. Ed. 3.
Stat. 5. c. 2.*

Petit Treason.

XLII. Sect. 4. *And be it further Enacted,* That the Justices of the Peace, before whom any Person shall be brought for any Murder, Manslaughter, or Felony, or for Suspicion thereof, shall take the Examination of such Prisoner, and Information of those that bring him, of the Fact and Circumstance thereof; and the same, or as much thereof as shall be material to prove the Fact, shall be put in Writing; and the same shall certify, together with the Bailment of such Prisoner, (in case the Crime whereof such Prisoner is charged, isailable) at the next *Sessions* of *Oyer* and *Terminer* or *Goal Delivery*, to be holden within the Limits of their Commission: And that the said Justices shall bind all such by Recognizance or Obligation, as do declare any Thing material to prove such Murder, Manslaughter, or Felony against such Prisoner, to appear at the next *Sessions* of *Oyer* and *Terminer* or *Goal Delivery*, to be holden within the County where the Trial of such Murder, Manslaughter, or Felony, shall be, then and there to give Evidence against such Prisoner; and that the said Justices shall certify the said Bonds or Recognizances taken before them, in like Manner as the Examinations of such Prisoner, and the Witnesses, are herein before directed to be certified.

*Eng. Stat. 1. & 2.
Phil. & Mar. c. 13.
2. & 3. Phil. &
Mar. c. 10.*

The Justices Duty in the Examination and Bailment of a Prisoner, and in the Examination of Witnesses, and certifying thereof.

XLIII. 11. Geo. 3. Chap. 3. *Be it Enacted by the Governor, Council, and Assembly,* That any Person or Persons who shall before the Judges of the Supreme Court, or other Judges, or other Persons empowered by Law to take Bail, or Bails, represent or personate any other Person or Persons, whereby the Person or Persons, so represented, or personated, may be liable to the Payment of any Sum or Sums of Money, for Debt or Damages, to be recovered in the same Suit or Action wherein such Person or Persons are represented or personated, as if they had really acknowledged and entered into the same, being lawfully convicted thereof, shall be adjudged, esteemed, and taken to be Felons, and suffer the Pains of Death, and incur such Forfeitures and Penalties as Felons in other Cases convicted and attainted do, by the Laws of England, loose and Forfeit.

Felony or any Person to be Bail in another Man's Name.

C A P. XI.

An A C T for preventing *Trespases.*

32. Geo. 2. Ch. 14.

Be it Enacted by the Governour, Council and Assembly, and by the Authority of the same, it is hereby Enacted, That all Fences belonging to any inclosed Lands, shall be built and made with Stone, Pickets, Boards, or Posts and Rails, or Log Fence, unless the Lands are bounded by Ponds, unfordable Rivers, or the Sea. And such Fences shall be at least four Feet and an half high; except in the Township of *Halifax*, where four feet shall be deemed a lawful Fence, and if any Damage be done by breaking any Inclosures, and destroying any of the Produce thereof, by any Horses, Sheep Goats, Swine or neat Cattle, if such Inclosures shall at the Time of such Damage be inclosed by a good and sufficient Fence, agreeable to Law; the Owners of such Trespassing Cattle shall pay to the Party injured the Value of all such Damages, to be ascertained on an appraisement thereof by three credible Persons, living in the Neighbourhood, being first sworn before one of His Majesty's Justices of the Peace, where such Lands lie, truly to value the same; and the Person or Persons against whom the said Trespas shall be committed, shall and may impound the said Horses, Sheep, Goats, Swine or Neat Cattle, and the Keeper of the Pound shall cause the same to be cried as soon as may be, and if the Owner or Owners of such Horses, Sheep, Swine, Goats or Neat Cattle shall neglect or refuse to the Keeper of the Pound, the damages aforesaid, for the Use of the Person suffering by such Trespas, together with *1s. per Day* for the Keeping of each Horse, or Neat Cattle, and *6d per Day* for each Sheep, Swine or Goat, together with the Charges of Crying the same within Fourteen Days after the same shall be impounded, the said Horses, Neat Cattle, Sheep, Goats or Swine, shall be publickly Sold, and the Money arising from said Sale, after deducting therefrom the Damages aforesaid with the Charge of Keeping and Crying shall be paid to the Owner, and if no Owner shall appear, then to the Overseers of the Poor for the Use of the Poor of such Township.

Fences to be made of Stone, &c.

Damages of trespassing Cattle, how to be paid.

II. *And whereas the Owners and Proprietors of Fields and Lands, lying and being, adjoining to other inclosed Lands do neglect to Fence in their Proportionable Part of such Lands. Be it Enacted, by the Authority aforesaid.* That the Proprietor of any Field or Lands adjoining to others inclosed or improved, shall build up or maintain his Part or Porportion of Fencing, with a Good and sufficient Fence of four Feet and a Half high, on that Part of such Land as is adjoining to his own, and in case he neglects so to do within ten Days after Notice given him, it shall and may be lawful, and any one of the Fence Viewers upon Application being made to him, is hereby empower'd forwith

Proprietors of Lands to fence their Proportion.

On Neglect the Fence Viewer to erect repair the same.

forwith to cause such deficient Fence to be raised or made, or other-ways to repair any Fence already made if the same is insufficient, and the Person or Persons that of right ought to build and maintain the same, shall pay double the Costs and Charges expended for the doing thereof. *Provided always*, that no Fence Viewer shall be allowed more than three Shillings per Day for his own Trouble and Time expended herein, and if any Fence Viewer when notified shall neglect his Duty herein, he shall forfeit *Forty Shillings* for every Offence.

Surveyors of Highways to have the charge of streets, &c.

III. *And be it further Enacted*, That the Surveyors of Highways shall have the Care and Supervisal of all the Streets, Lanes and Highways of the Town and Suburbs of *Halifax*, and are hereby impowered to prevent the same from being obstructed or incumbered, and to cause the same to be mended, at the charge of the Proprietors of Land, bordering thereon, and they are hereby required to present all Nuisances in the said Streets, Lanes and Highways at the *General Quarter Sessions* of the *Peace*, to be proceeded against, according to the Laws of England in such Cases made and provided.

Penalty on Persons, rescuing.

IV. 33. *Geo. 2. Ch. 14. Sect. 3. Be it Enacted*, That if any Person or Persons shall rescue any Swine, Horses, Sheep, Goats or Neat Cattle from any Hoggreave, or other Person driving such Swine, Horses, Sheep, Goats or Neat Cattle to the Pound, the Offender shall forfeit and pay for such Rescue the Sum of *Twenty Shillings*, over and above all Damages, that may be sustained by the Trespass, which Penalty shall be recovered by the Oath of one credible Witness, before any one of His Majesty's Justices of the Peace, and to be levied by Warrant of Distress and Sale. And if any Person or Persons shall make any Breach of the said Pound, or shall by any other indirect Means, deliver any Swine, Horses, Sheep, Goats or Neat Cattle out of the same, the Person so offending, shall upon Conviction before any two Justices, forfeit and pay the Sum of *Five Pounds*, to be levied as aforesaid; the Penalties aforesaid, to be applied to the Use of the Poor; first deducting the Charges of repairing the Pound Breach.

Proprietors to repair Streets bordering on the Lands,

V. *Sect. 4. Be it Enacted*, That if any Proprietor of Lands bordering upon the Streets, Lanes and Highways of the Town and Suburb of *Halifax*, shall not within Fifteen Days Notice from the Surveyors of Highways, cause such Parts of the Streets, Lanes and Highways as border on his Lands to be levelled and repaired, according to the Directions of such Surveyors, such Persons shall forfeit and pay such Sum as shall be certified on Oath by such Surveyors to be necessary for such Levelling and Repairs, which Sum shall, on such Certificate

cate be levied by Warrant of Distress, and Sale, from any one of his Majesty's Justices of the Peace, and for want of Goods and Chattels whereon to Levy; the real Estate of such Proprietor shall then be liable.

VI. Sec. 5. *Provided*, that if any Person shall be rated by such Certificate in any Sum exceeding *Twenty Shillings*, such Person may appeal to the next *General Quarter Sessions of the Peace*, who may finally determine the same.

Appeal to the Sessions.

VII. Sec. 6. *And be it further Enacted*, That the Justices in their *Quarter Sessions of the Peace* in all other Counties within the Province, shall be empowered to make Regulations for preventing Trespasses by Horses, Swine, Sheep, Goats and Neat Cattle going astray in manner as shall be most agreeable to the Circumstances of such County or Townships therein.

Justices in Sessions to make Regulations.

VIII. 1. *Geo. 3. Ch. 10.* That any Person transgressing such Regulations so made by the Justices in the Sessions aforesaid, for the preventing of Trespasses aforesaid, shall be subject to a Fine not exceeding *Forty Shillings*, to be recovered on Complaint or information before any two Justices of the Peace for the County where the Offence shall be committed, or before the Sessions in said County.

Transgressors of regulations subject to fine of 40s.

IX. 1. *Geo. 3. Ch. 5.* It shall and may be lawful for any Person whatsoever, to take and seize all Swine and Goats going at large within the Street, Lanes, and Suburbs of *Halifax*, and upon Proof thereof on Oath of one Credible Witness before any one of His Majesty's Justices of the Peace for the said Town and County, the same shall be by him declared forfeited; one Third of the Value of which, to be paid to the Prosecutor, and the Remainder to, and for the use of the Poor of the Town of *Halifax*, and shall accordingly be disposed of by him for their Use.

Any Person may seize Goats or Swine going at Large.

X. 7. *Geo. 3. Ch. 8. Sec. 1.* That if any Person (not being the Proprietor, or having legal Authority), shall presume to throw down or remove any Fence, of Stone Wall, or any part thereof, inclosing any Parcel of Ground within this Province, or shall carry away any Rails, posts, Gates, Bars, Boards or any other Materials, whereof Fences are made, or shall levell any Ditches, or cut down any Hedges, such Person shall upon Conviction thereof, before the *General Sessions of the Peace*, or before any *Court of Record* in this Province (over and above the Damages given to the Party injured, forfeit and pay a Sum not exceeding *Ten Pounds*, one Half to His Majesty, and the other Half to the Prosecutor; and if such Person shall be unable to pay the same, he shall be committed to the House of Cor-

Throwing down Stone Fences, &c. penalty £10.

rection, there to be kept to hard Labour for the space of two Months, or be whipped at the Discretion of the Court.

Horses breaking inclosures Penalty 10^s. above Damages.

XI. Sec. 2. That all Horses that shall break into any Inclosures, within the Peninsula of *Halifax*, lawfully fenced, or that shall be found trespassing therein, the owner of all such Horse or Horses, shall forfeit and pay the Sum of *Ten Shillings*, for each and every such Horse, over and above the Damages, which Forfeiture shall be recovered on Proof thereof, before any one Justice of the Peace, one Half to the Prosecutor, and the other Half to the Use of the Poor; and where no Owner shall appear to pay the Damages, Costs and Fine, the said Justice shall and may (after public Advertisement given for Ten Days) sell the said Horse or Horses, and the Surplusage over and above the Payment of the Costs, Damages and Fine, shall be restored to the Owner when he appears.

Pole or Brush Fences lawful.

XII. 8. *Geo. 3. Ch. 12.* That the Pole Fence as is now commonly used, or any other Fence made of Brush, or other Materials, to the Judgment of the Fence Viewer, shall be deemed and held to be lawful, and if any dispute shall arise thereon, the same shall be adjudged and determined immediately, and without delay, by any two Men of known Reputation to be mutually chosen by the Parties, which two Men, together with the Fence Viewer, or the majority of them shall and are hereby empowered to determine the same; and in Case either of the said Parties shall neglect, or refuse to make such Choice and Appointment, then the said Choice shall and may be made by the Party willing and ready to do the same.

Disputes how determined.

Farms bounded by Rivers.

XIII. 8. *Geo. 3. Ch. 7. Sec. 1.* That to all Farms which are bounded on Rivers, where the Tide flows Eight Feet, and upwards, at common Tides, such river so far up, shall be deemed a sufficient and lawful Fence.

Peninsula *Halifax*, Fences 4 Feet lawful.

XIV. Sect. 2. The Justices of the Peace for the County of *Halifax*, shall, and are hereby empowered in their *Quarter Sessions of the Peace*, to make Regulations for preventing Trespasses by Horses, Swine, Sheep, Goats and Neat Cattle going astray, in Manner as shall be most agreeable to the Circumstances of such County or Township therein, and enforce the same by the like Penalties; as the Justices of the Peace in the other Counties at their *Quarter Sessions* are empowered to do.

Justices in *Halifax*, empowered to make Regulations.

XV. 17. *Geo. 3. Ch. 6.* If any Person or Persons shall cut down, or otherwise destroy any Trees or Underbrush growing within Thirty Feet off the Road off the Land, that lies between the said Road leading

ing from *Halifax to Fort Sackville*, on that Side next *Bedford Basin*, he or they shall on Proof thereof, by the Oath of one Credible Witness, before one of His Majesty's Justices of the Peace, forfeit and pay the Sum of *Forty Shillings*, to be levied by Warrant of Distress, one Half to the Informer, and the other Half to the Use of said Road.

XVI. 21. *Geo. 3. Ch. 4.* That all Partition Fences, between Lands under Improvement shall be made and maintained from Time to Time, in equal Proportion, by the Owners or Proprietors of such Lands respectively. But when it shall happen, that it shall be wood, barren or burnt Land, and not under any Improvement, no proprietor shall be obliged to make any Part of the Fence to said Wood, barren or burnt Land; any Law, Usage or Custom to the contrary notwithstanding.

Cutting down Underbrush on Sackville Road punishable.

Wood, barren or burnt Land, Owners not obliged to Fence.

C A P. XII.

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

*** E it Enacted by His Excellency the Governor, Council, and
 B *** Assembly, and by the Authority of the same it is hereby Enacted,
 *** That from and after the Publication hereof, when any Person or Persons shall recover Judgment in any of His Majesty's Courts of Record within this Province, for any Sum or Sums of Money, or for Costs of Suit, and the Person or Persons against whom Judgment shall be recovered, shall be either unwilling or unable to satisfy such Judgment by Money or otherwise, or sufficient *Personal Estate*, whereon to levy Execution on such Judgment, shall not be found, then and in such Case, Execution shall and may be extended on the *Real Estate* of such Debtor or Debtors; and the Sheriff or his Deputy, upon Request, to either of them made by the Creditor or Creditors, his or their Attorney or Agent, shall give Notice in Writing to the Debtor or Debtors, or in their Absence to their Attorney or Agent, to nominate an Appraiser, and the Creditor or Creditors shall have like Notice to nominate another on their behalf, and the said Sheriff or his Deputy

Execution, upon Judgment, to be levied on Personal Estate, and if insufficient then on Real Estates of the Debtor

by Appraisers to be appointed by the Creditor, Debtor, and Sheriff,

Deputy shall name a Third, being all discreet indifferent Men and Freeholders; and in Case such Debtor or Creditor or either of their Agents or Attornies shall, for the Space of three Days after such Notice, refuse or neglect to nominate an Appraiser on their respective behalfs, or in Case such Debtor or Debtors, shall be absent from the Province, and have no known Attorney or Agent, then and in such Case the Sheriff or his Deputy shall and may nominate an Appraiser for such Debtor or Creditor respectively; And the Sheriff or his Deputy shall cause the said Appraisers, so nominated, to be sworn before some of His Majesty's Justices of the Peace, faithfully and impartially to the best of their Skill and Knowledge, to appraise such *Real Estate* as shall be shewn to them. And the said Appraisers with the Sheriff or his Deputy shall forthwith repair to the Lands or Tenements of such Debtor, and view and examine the State and Condition thereof, and if upon such View and Examination, the said Appraisers, or any two of them, shall judge that the annual Rent of such Lands or Tenements, will be sufficient to pay such Debt, Costs, and lawfull Interest for the same, together with the necessary Repairs, within Two Years, then the Sheriff or his Deputy shall extend the said Execution on the Rents only, and cause the Person or Persons in Possession whether Debtor or Debtors, or their Tenant or Tenants, to Attorn and become Tenant to such Creditor or Creditors, and shall pay Rent Quarterly to such Creditor or Creditors, who may distrain for the same, if in Arrear, according to the Laws of *Great-Britain*, " And " every such Debtor or Debtors, or Persons in Possession of the Premises, who shall refuse to attorn as Tenants to the Creditor or Creditors, at the Rent fixed by the Appraisers, and shall refuse or neglect " to pay the Rent as it becomes due, then in either of these Cases, the " Person or Persons in Possession of the Lands or Tenements, shall be " deemed as guilty of a wrongfull Detainer, and shall and may be prosecuted accordingly."

II. *And be it further Enacted*, That if upon such View and Examination aforesaid, the said Appraisers or the major Part of them shall be of Opinion, that the yearly Rents of the Lands or Tenements of such Debtor or Debtors are not sufficient to satisfy such Debt with Cost and Interest, together with the Charge of needfull Repairs within the Space of two Years, then the Execution shall, and may be levied on Part of such Estate, and whenever an Execution shall be so levied, there shall be five Appraisers fit and discreet Men, two to be chosen by the Debtor, two by the Creditor, and one by the Sheriff or his Deputy, who shall be sworn to do equal Justice between Debtor and Creditor in valuing

and sworn to appraise such Real Estate as shall be

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

Rents to be paid to the Creditor.

3. Geo. 3: Ch. 8.

valuing the same, and shall sett of so much thereof, as they shall think sufficient to satisfy the Debt with Costs and Interest, with as little Injury as may be to the Debtor, and to the said Remander of the Estate ; But if the said Execution cannot conveniently be levied upon a Part of said Estate, or if a Part shall be insufficient ; then the said Execution shall and may be Levied upon the whole of the Lands or Tenements of such Debtor or Debtors, and the Sheriff or his Deputy shall immediately deliver, seizen and Possession thereof to such Creditor or Creditors, and shall cause the Person or Persons in Possession or Improvement thereof to attorn, and become Tenants to such Creditor or Creditors, and in Case the Tenant or Tenants, or other Person in Possession or Improvement of such Lands, or Tenements, shall refuse to attorn, and become Tenants to the Creditor or Creditors, at such Rents as said Creditors shall think reasonable, and pay the same as it becomes due, that then and in either of these Cases, the Person or Persons in Possession of said Lands or Tenements shall be held and deemed wrongful Detainers, and shall and may be prosecuted Accordingly.

III. *And be it Enacted*, That the Attornment, shall be in the Form following.

“ I. A. B. of do hereby attorn and become
 “ Tenant to C. D. of for for the
 “ Term of at the yearly Rent of
 “ per Annum; the said Rent to be paid Quarterly,
 “ with Liberty for the said C. D. or his Attorney to enter into said
 “ Premises and distrain for the said Rent, if in Arrear; in Considera-
 “ tion of which Attornment I have paid the said C. D. the Sum of One
 “ Shilling. Witness my Hand at the
 “ Day of Witness

3. Geo. 3. Chap. 8.
 Form of Attorn-
 ment.

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

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

Sheriff to execute a Deed of the Premises to the Creditor

Subject to an Equity of Redemption.

Clerk neglecting his
Duty, forfeits £5.

Debtors may re-
deem their Lands,
&c. in two Years.

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

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

15. Geo. 3. Ch. 4.

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

demption, as is herein after prescribed ; and any Clerk refusing or neglecting his Duty herein, shall forfeit the Sum of *Five Pounds*, to be recovered by Action of Debt by the Party aggrieved.

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

V. *And be it further Enacted*, That when any Estate shall be found by the Appraisers, to be of greater Value than the Debt and Cost, the Creditor or Creditors shall be obliged, at the Expiration of Thirty Days next after the End of the said Two Years, (if not sooner redeemed) to give publick Notice by Advertisement " in the *Nova Scotia Gazette*, or other publick Newspaper and in some public Place in " the Township or Place, where the Lands lie, at least three several " Times, during three Months before such Sale." That the Lands or Tenements, so extended, are to be sold at publick Auction by the Sheriff or his Deputy, who are hereby impowered to sell the same, and to execute to the Person or Persons purchasing the same, a Deed thereof as of a Fee Simple, which Deed being registred as by Law required, shall be good and valid in the Law ; but in the mean Time and until such Sale shall be made, the Equity of Redemption of such Lands or Tenements, shall be open in Favour of such Debtor or Debtors, their Heirs, Executors, Administrators, or Assigns, to recover the same ; and if, upon such Sale, the said Lands or Tenements, do sell for more than the original Debt, Cost, Charges, and Interest, the Creditor or Creditors, or their Attorney or Agent or Assigns, shall pay the Overplus into the Hands of the Debtor or Debtors or their Heirs, Executors, Administrators, or Assigns, the said Creditor or Creditors accounting to such Debtor or Debtors, for all Rents and Profits, first deducting for all necessary Repairs : But if the said
Lands,

Lands or Tenements do sell for less than the Debt, Cost, and Charges Interest, then the Creditor or Creditors, or their Heirs or Assigns, in such Case, shall and may have an *Alias* Execution against the Debtor for the Residue.

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

VI. *And be it further Enacted*, That when the Real Estate of the Debtor upon Appraisement, or when the yearly Rent of the Lands or Tenements extended upon, at the End of the said Two Years, shall be found insufficient to satisfy the Judgment, with Cost, Charges, Interest, and needful Repairs; That in either Case, an *Alias* Execution may issue on the said Judgment for the Remainder, and be levied on such other Effects or Estate as can be found of the Debtor, or his Body may be taken and detained until Satisfaction be made of such Judgment, with Cost, Charges, and Interest; any Law, Usage, or Custom to the contrary notwithstanding.

If the Real Estates insufficient, &c. Execution to be levied on their Effects, or the Body.

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

Not to extend to Insolvent Debtors.

VIII. 13. Geo. 3. Ch. 4. *Be it Enacted*, That nothing in the said Act, nor any thing therein contained, shall extend or be construed to extend, to bar the Title of any Minor, Feme Covert, or Person non Compos Mentis, imprisoned, or absent from the Province, but they shall be intitled to sue for, and recover any Lands or Tenements within this Province, to which they are intitled, within Six Years after such Impediment shall be removed, any thing in the said Act to the contrary in any wise notwithstanding.

Minors, &c. may recover lands within six Years after impediment removed.

C A P. XIII.

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

Be it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby *Enacted*, That every Butcher and other Person, who shall kill or slaughter any Ox, Cow, Sheep, Swine, Calf, Lamb, or other Cattle, for Sale, shall slaughter and flea the same in the most clean and plain Manner, and shall not on any Pretence, raise, or blow, or use any fraudulent or deceitful Art to set off the same; and no Butcher or other Person, shall sell or expose to Sale any Cattle killed, but what shall be killed or dressed in the most plain Manner; and according to the Meaning of this Act; and if any Butcher or other Person shall offend in

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

in any of the Premises, and be convicted of the said Offence, before One Justice of the Peace of any County, by One Witness or Confession of the Offender, or on View by such Justice, he shall forfeit such Ox, Cow, Sheep, Swine, Calf, Lamb, or other Cattle, or Part thereof, killed or dressed contrary to this Act, to be disposed of, by such Justice, among the Poor of the Town, where such Offence shall be committed, or among the Prisoners; and shall further forfeit the Sum of Five Shillings to and for the Use of the Informer, to be levied by Warrant of Distress under the Hand and Seal of such Justice.

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

Conviction before one Justice.

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

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

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

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

C A P. XIV.

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

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

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

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

II. *And*

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

Clergyman refusing to make Publication forfeits £50.

and liable to an Action for Damages.

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

The like Penalty for refusing to marry.

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

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

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

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

nor to work Corruption of Blood, &c.

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

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

VII. 1. Geo. 3. Ch. 7. That the Causes for which Marriages shall be declared null and void shall be in all Causes of Impotence, of Precontract and Kindred within the Degrees prohibited in an Act made in the Thirty Second Year of King Henry the Eighth, intituled, *An Act concerning Precontracts and touching Degrees of Consanguinity, of Adultery and of Cruelty,* and for none other Causes whatsoever.

VIII. *And be it further Enacted by the Authority aforesaid,* That every Man and Woman who shall carnally know each other, being within the Degrees of Kindred forbidden in the aforesaid Act, and shall be convicted thereof before His Majesty's Supreme Court of Judicature, Court of Assize and General Gaol Delivery, or Court of General Quarter Sessions of the Peace, shall be set in the Pillory for the Space of One Hour, and further shall forfeit the Sum of Fifty Pounds, to the Use of His Majesty's Government, or suffer Six Months Imprisonment.

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

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

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

C A P. XV.

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

Eng. Stat. 29 Car. 2. c. 3. Sec. 1. — 4. After the 1st May 1759, Leases, &c. by Livery & Seisin only, or by Parol and not put in writing.

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

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

Except Leases not exceeding the Term of Three Years.

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

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

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

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

IV. *And be it further Enacted*, That from and after the said First Day of May, no Action shall be brought whereby to charge any Executor or Administrator upon any Special Promise, to answer Damages out of his own Estate, or whereby to charge the Defendant upon any special Promise, to answer for the Debt, Default or Miscarriages of another Person, or to charge any Person upon any Agreement made upon

upon Consideration of Marriage, or upon any Contract or Sale of Lands, Tenements, or Hereditaments, or any Interest in, or concerning them, or upon any Agreement that is not to be performed within the Space of One Year from the making thereof, unless the Agreement upon which such Action shall be brought, or some Memorandum or Note thereof, shall be in Writing, and signed by the Party to be charged therewith, or some other Person thereunto by him lawfully authorized.

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

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

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

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

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

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

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

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

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

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

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

Lands, Tenements, and Hereditaments, shall be accordingly held, freed from all Incumbrances of such Persons seized or possessed in Trust.

Heir chargeable with the Obligation of his Ancestor.

but not out of his own Estate.

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

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

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

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

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

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

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

which shall be deemed a Judgment from such Time only.

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

XIV. *And*

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

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

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

Eng. Stat. 29. Car. 1. c. 3. Sect. 16. No execution to bind the Property of Goods, but from the Time that it is delivered to the Sheriff.

C A P. XVI.

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

Be it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That from and after the Twenty Fifth Day of March Instant, if any Woman shall be delivered of a Bastard Child, which shall be chargeable or likely to be chargeable to the Province, she having declared to the Midwife, or other Persons assisting her at the Time of Delivery, who the Father of such Child was, and shall have at some Time before, declared herself to be with Child, and that such Child is likely to be born a Bastard, and to be chargeable to any Place within the Province, and shall in either of such Cases, upon Examination to be taken in Writing upon Oath, before One Justice of the Peace near where such Place shall lie, charge any Person with having gotten her with Child; it shall and may be lawful for such Justice, upon Application made to him by the Overseers of the Poor of such Place, or any One of them, or some substantial Householder of such Place, to issue out his Warrant to apprehend such Person so charged as aforesaid, and to bring him before him or some other of His Majesty's Justices, and to commit such Person to Goal or the House of Correction, unless he gives Security to indemnify such Place from the supporting or maintaining such Child or Children, and shall enter into Recognizance with sufficient Security for his Appearance at the next Quarter Sessions, where he shall be continued on Recognizance till the Woman is delivered of such Child or Children. *Provided,* that if such

Eng. Stat. 18 Eliz. c. 3. 7. Ja. 1. c. 4. Sect. 7. 13 & 14. Car. 2. c. 12. Sect. 19. 6. Geo. 2. c. 31. If a Woman be with Child of a Bastard likely to be chargeable to any place within the Province,

the Father to be bound by one Justice, with Sureties to indemnify such Place.

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

Q.

Woman

Woman shall die or be married before she be delivered, or Miscarry of such Child or Children, or shall appear not to have been with Child at the Time of her Examination, such Person shall be discharged from his Recognizance at the next Sessions, or immediately released out of Custody, if committed.

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

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

IV. *Provided nevertheless*, That if any Person shall think himself wrongfully charged, or if the Person charging him be a Woman of ill Fame or a Common Whore, in such Cases, upon giving Security to abide the Judgment of the Court, he may appeal from the Order of the Justices, to the next Sessions, when the whole Cause may be heard and tried by such Court, on the Verdict of a Jury.

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

on Failure to be committed for Six Months.

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

Appeal to the next Sessions, upon security given.

C A P. XVII.

An Act for punishing Criminal Offenders.

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

Blasphemy.

II. *And* be it further Enacted, That if any Person shall prophanely swear or curse in the Presence or Hearing of any Justice of the Peace, or shall be thereof convicted by the Oath of One credible Witness, or by the Confession of the Party, before any Justice of the Peace, every Person offending shall forfeit, to the Use of the Poor of the Town where such Offence shall be committed, for the First Offence Two Shillings, and in Case such Person shall, after Conviction, offend a second Time, such Person shall forfeit double, and if a third Time, Treble the Sum to be paid for the first Offence; and upon Neglect of Payment, the Justice shall issue his Warrant to a Constable, commanding him to levy the said Forfeitures by Distress and Sale of the Goods of such Offender, and the Forfeiture, when paid or levied, shall be delivered to the Overseers of the Poor for the Use of the Poor as aforesaid; and in Case no Distress can be had, such Offender being above the Age of Sixteen Years, shall by Warrant of the Justice, be set in the publick Stocks for One Hour for every single Offence, and for any Number of Offences whereof he shall be convicted at One Time, Two Hours; and if the Party offending be under the Age of Sixteen Years, and shall not pay the Forfeitures, he shall, by Warrant of the Justice, be whipped by the Constable, or by the Parent, Guardian, or Master of such Offender, in Presence of the Constable; *Provided* always, that every such Offence be proved or prosecuted within Ten Days after the Offence committed.

Prophanely swearing or Cursing.
Eng. Stat. 16 Geo. 2.
c. 1.

III. *And* be it further Enacted, That every Person who shall by View of any Justice of the Peace, or Confession of the Party, or Oath of One credible Witness before any such Justice, be convicted of Drunkenness, shall forfeit and pay for the Use of the Poor of the Town where

Drunkenness
Eng. Stat. 4. Ja. 1.
c. 5. 21. Ja. 1.
c. 2.

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

Justice to register
Convictions.

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

Justice, if sued, to
plead the General
Issue.

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

Counterfeiting &c.
Foreign Coin cur-
rent in the Province.

15. Geo. 3. Ch. 10.

VI. *And be it further Enacted*, That every Person duly convicted at the Court of General Goal Delivery, or Quarter Sessions, of counterfeiting or impairing diminishing or imbasing any Foreign Coins, current in the Province, by washing, clipping, rounding, filing, or scaling of the same, or of uttering any counterfeited or impaired Coin, knowing the same to be so counterfeited or impaired, shall be set in the Pillory, by the Space of One whole Hour, and One of the Ears of such Offender shall be Cut off and nailed thereto, and such Offender shall also be publickly whipped through the Streets of the Town where such Offence shall be committed, and shall pay all Charges of the Prosecution.

Eng. Stat. 6. & 7.
Will. 3. c. 17.
Sect. 4.
Buying Clippings,
&c.

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

VIII. *And*

VIII. *And be it further Enacted*, That if any Person shall forge or counterfeit, or procure to be forged or counterfeited, or willingly assist in the forging or counterfeiting, any Deed or Writing sealed, or last Will or Testament, or shall publish or shew forth in Evidence, any such forged or counterfeit Deed, Writing sealed, or last Will or Testament, as true, knowing the same to be false; or if any Person shall forge or counterfeit, or procure to be forged or counterfeited, or willingly assist in the Forging or Counterfeiting, any Bond, Writing Obligatory, Bill of Exchange, Promissory Note for the Payment of Money, or any indorsement or Assignment of any Bill of Exchange, or such Promissory Note for Payment of Money, or any Acquittance or Receipt either for Money or Goods, or any Discharge of any Action, Account, Debt, Demand, or any personal Thing, with Intention to defraud any Person, or shall utter or publish as true, any forged or counterfeited Bond, Writing Obligatory, Bill of Exchange, or such Promissory Note for the Payment of Money, or such Acquittance, Receipt, or Discharge, with Intention to defraud any Person, knowing the same to be forged or counterfeited; every such Person, being thereof convicted at the Court of Assize and General Goal Delivery, or Sessions of the Peace, shall be set in the Pillory, and there have One of his Ears cut off, and shall also suffer Imprisonment for the Space of One Year without Bail or Mainprize; and the Party grieved shall recover his double Costs and Damages, to be assessed in the Court where such Conviction shall be: *Provided always, and it is hereby Enacted*, That this Act nor any Thing herein contained, shall not extend to charge any Judge of Probate, or any Register, for any of the Offences aforesaid, for putting their Seal of Office to any Will to be exhibited to them, not knowing the same to be forged or counterfeited, or for Writing of the said Will or Probate of the same, nor to any other Person or Persons that shall shew forth or give in Evidence, any false or forged Writing for true or good, being not Party or privy to the Forging of the same, not knowing the same to be false or forged.

IX. *And be it further Enacted*, That if any Person or Persons, either by the Subornation, unlawful Procurement, sinister Persuasion or Means of any other, or by their own Act, Consent, or Agreement, shall wilfully or corruptly commit Perjury, by his, her, or their Deposition in any Court of Record, or being examined *ad perpetuam rei memoriam*, every Person so offending, and being thereof duly convicted, shall forfeit Twenty Pounds, the one Moiety thereof for the Support of His Majesty's Government, and the other Moiety to such Person or Persons as shall be grieved by Reason of the Offence, that shall sue for the same by any Action of Debt, Bill, Complaint, or Information in any Court of Record; and shall also be imprisoned by the Space of Six Months without

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

Pillory, &c.

Not to extend to
Judge of Probate,
&c.

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

Penalty £20.

Bail or Mainprize. And the Oath of such Person or Persons shall not be received in any Court of Record, untill such Time as the Judgment given against the said Person or Persons shall be reversed, and upon every such Reversal, the Parties aggrieved shall recover their Damages against such Person or Persons, as did procure the said Judgment so reversed, to be given against them or any of them, by his, her, or their Action upon the Case, according to the Course of the Common Law.

and six Months Im-
prisonment.

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

or Pillory.

15. Geo. 3. Ch. 10.

XI. *And be it further Enacted*, That every Person and Persons who shall unlawfully and corruptly procure any Witness or Witnesses, by Letters, Rewards, Promises, or by any other sinister and unlawful Labour or Means whatsoever, to commit any wilful and corrupt Perjury in any Matter or Cause whatsoever, depending or that shall depend in Suit and Variance by any Writ, Action, Bill, Complaint or Information in any Court of Record, or to testify *in per petuam rei memoriam*: every such Offender, being thereof, duly convicted, shall suffer the like Pains Penalties, Forfeitures, and Disabilities in all Respects as are hereby directed for the like Offences, and the said Forfeiture to be recovered and applied in Manner as aforesaid.

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

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

Judges empowered
to inquire of such
Offences.

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

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

XIV. *And be it further Enacted*, That if any Person or Persons shall falsely and deceitfully obtain or get into his, her, or their Hands or Possession, any money, Goods, Chattels, Jewels or other Things of any

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

any other Person or Persons, by Colour and Means of any privy false Token, or counterfeit Letter made in another Man's Name, to a special Friend or Acquaintance, for the obtaining of Money, Goods, Chattels, Jewels or other Things, and shall be thereof convicted in any Court of Oyer and Terminer, Court of Assize and General Goal Delivery, or Quarter Sessions of the Peace, every such Offender shall suffer such Punishment by Imprisonment, setting upon the Pillory, publick Whipping, or hard Labour in the House of Correction, as such Court where the Offender shall be convicted, shall in their Discretion adjudge.

Pillory.

XV. 10. Geo. 3. Ch. 6. That if any Person or Persons above the age of Fourteen Years shall be convicted by Confession or by the Oath of one credible Witness in any of his Majesty's Courts of Record, of making or publishing a Lye, Libel or Scandalous Report tending to the Defamation and Damage of any Person, or shall with Intent to abuse and deceive others, invent or spread any false News; such Offenders shall and may be punished at the Discretion of such Court, and any Party grieved by such Offences, shall and may have his Action for Damages aforesaid against such Offender or Offenders.

Manner of proceeding against Persons publishing Libels, &c.

C. A. P. XVIII.

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

WHEREAS great Frauds are daily committed in this Province, because no Standard for Weights and Measures, or Assize of Bread, have hitherto been established; Be it therefore Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That all Weights and Measures used in this Province, shall be according to the Standard of the Exchequer of England: And that the Clerks of the Market for each Town, shall procure a Sett of Weights and Measures according to such Standard, which Weights shall remain with them as Assay Weights, and shall be marked with the Letters G II: R:

Preamble:

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

Clerks of the Market to procure a Sett of Weights.

II. And be it further Enacted, That every Inhabitant of each Town respectively, making Use of Weights and Measures in the Sale of any Commodity, shall, in One Week after publick Notice given by such Clerks respectively, bring or cause to be brought, their Weights and Measures to be assayed, for each of which Assay he shall have Two Pence

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

Pence for his Trouble and the said Clerk shall cause such Weights and Measures to be branded and stampd with the Initial Letter of the Town where such Assay shall be made. And whoever shall thenceforward, sell or vend any Commodity by Weights or Measures not so branded or marked, shall forfeit for every such Offence Twenty Shillings, on conviction before One of His Majesty's Justices of the Peace, to be levied by Warrant of Distress and Sale.

forfeit 20s. Conviction before One Justice.

III. That the said Clerks shall and are hereby impowered to inspect all Weights and Measures, and once in Three Months, or oftner visit every Inhabitant selling publickly by Weights and Measures, and shall have full Power and Authority to seize all such, not stampd or branded as aforesaid, and may assay and mark and dispose of the same for their Use, as a Satisfaction for their Trouble therein; and if any Person shall be convicted of Selling by Weights and Measures less than the Standard hereby established, he shall forfeit the Sum of Ten Pounds, to be recovered by Bill, Plaint, or Information, in any Court of Record.

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

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

IV. That every Baker within this Province, shall and is hereby required to mark his Bread with the first Letter of his Christian and Sirname, and, upon Failure thereof, the same shall be seized, and forfeited to the use of the Poor of the Town, where such Offence is committed.

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

Bread not marked to be forfeited.

V. *Provided*, That Persons thinking themselves aggrieved by such Seizure may within Twelve Hours after such Seizure made, apply for Redress to any one of his Majesty's Justices of the Peace, who is impowered to hear and determine the same.

Appeal to a Justice within 12 Hours,

VI. That if any Person making Use of Weights and Measures, or selling Bread, shall refuse Admittance to any of the said Clerks in the Discharge of their Duty, he shall for every Offence forfeit the Sum of Twenty Shillings, to be recovered before any one Justice of the Peace.

Refusing Admittance to Clerks. Penalty 20s.

VII. 33. *Geo. 2 Ch. 6. Sect. 1. It is Enacted*, That no Provision or Goods of any Kind shall be sold within the Province by Steelyards (except the Article of Hay) under the Penalty of Twenty Shillings, to be recovered against the Seller before one Justice of the Peace.

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

VIII. *Sect. 11.* The Clerks of the Market are hereby impowered to inspect all Beams and Scales, and also Steelyards used for Weighing Hay, and also Weights and Measures once in three Months at least, not only those used by the Inhabitants selling publickly, but also those used on Board any Ships or Vessels lying at Wharves or at Anchor in the Harbour, and the same to Assay, Stamp, and dispose

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

to assay and stamp the same.

dispose of as before directed, the Masters of Ships or Vessels refusing Admittance of the said Clerks, shall be liable to the same Penalties as any Inhabitant in the like Case.

IX. 6. Geo. 3. Ch. 5. The Clerks of the Market in the several Towns in the Province shall visit the Bake Houses, and the Houses of all and every Person selling Bread, at least one Day in every Week, and shall make a Report of their Proceedings in Virtue of this, or any former Act once a Month to some of His Majesty's Justices of the Peace within their District, who shall certify the same at the next General Sessions of the Peace, and if it shall appear that the said Clerks have neglected their Duty herein, the said Justices shall and may fine the said Clerks in a Sum not exceeding Forty Shillings.

Clerks of the Market to visit the Bake Houses, &c. once every Week,

on Penalty of 40s.

X. Sec. 2. That every Baker or Seller of Bread, shall make his Bread, commonly called white Bread of the Flour of wheat only, and if he shall make use of or Mix with the said Bread the Flour or Meal of any other Kind of Grain, or any other ingredient whatever, or shall make use of or mix in the said Bread any decayed or damaged Flour, and be duly convicted thereof, he shall pay a fine not exceeding Ten Pounds, and be further corporally punished as in Cases of Fraud at Discretion of the Court before which he shall be convicted.

Bakers to make white Bread of the Flour of Wheat only

and not of damaged Flour,

on Penalty of £10.

XI. Sec. 3. Provided nothing in this Act shall extend to hinder any Baker, or other Person from making brown Bread mixed with Rye or Indian Meal, that is not damaged and sell the same as such.

Brown Bread may be mixed with Rye or Indian Meal.

XII. 7. Geo. 3. Ch. 4. That for the future all Fines and Forfeitures incurred on the foregoing Acts shall be applied one half to the Clerks of the Market or Informer, and the other Half to the Poor of the Town, where the offence shall be committed.

All Fines and Forfeitures to be one half to the Informer, and the other half to the Use of Poor.

XIII. 16. Geo. 3. Ch. 3. It is Enacted, That the following table shall be the Rule for making the Assize of Bread made for Sale, when the price of good sound inspected Wheaten fine Flour shall be as hereunder mentioned, That is to say.

When such Flour shall be from Eighteen to Nineteen Shillings the One Hundred and Twelve Pounds, the Sixpenny Loaf shall weigh.	2lb.	8oz.
When from Nineteen Shillings to Twenty Shillings, inclusive,	2	6
When from Twenty Shillings to Twenty One Shillings, inclusive,	2	5

Table for making the Assize of Bread when Flour from 18s. to 28s. per C, Weight.

When

When from Twenty One Shillings to Twenty Two Shillings, inclusive,	-	-	2	3
When from Twenty Two Shillings to Twenty Three Shillings, inclusive,	-	-	2	2
When from Twenty Three Shillings to Twenty Four Shillings, inclusive,	-	-	2	0
When from Twenty Four Shillings to Twenty Five Shillings, inclusive,	-	-	1	15
When from Twenty Five Shillings to Twenty Six Shillings, inclusive,	-	-	1	13
When from Twenty Six Shillings to Twenty Seven Shillings, inclusive,	-	-	1	12
When from Twenty Seven Shillings to Twenty Eight Shillings, inclusive,	-	-	1	10

Clerks of Market to examine all Bread made for Sale and seize all Bread under weight.

XIV. Sec. 4. That the Clerks of the Market shall examine all Bread made for Sale, and shall seize all such as shall be found under Weight, prescribed under the Penalty of Forty Shillings for every Neglect, and the Baker of such Bread so found under Weight shall forfeit and pay for every Offence the Sum of Forty Shillings, said Fines and Penalties to be levied by Warrant of Distress and Sale by one Justice of the Peace, three Fourths to be for the Use of the Poor and the other Fourth Part to the Seizer or Prosecutor.

Whenever the price of Flour shall exceed 28s. there shall be 11b. bread for 11b Flour, Justices at quarter Sessions or special sessions shall settle the current price of Flour and regulate the affize of bread. If any Baker shall offend he shall be subject to the penalties by Law established.

Magistrates failing to hear and determine complaint to forfeit £10.

XV. 19. Geo. 3. Ch. 9. That whenever the Price of Flour shall exceed Twenty Eight Shillings for 112 Lb. of Flour, the Affize of Bread shall be one pound of Bread for one pound of Flour, and the justices in their Quarter Sessions, or if need be, at a *Special Sessions of the Peace* to be called for the Purpose, shall from Time to Time settle the current Price of Flour, and regulate the Affize of Bread accordingly, and if any Baker shall offend against any of the Rates and Orders so made by the Sessions aforesaid, he shall be subject and liable to all the Pains and Penalties established as above mentioned.

XVI. Sec. 2. That on Complaint of any of the Inhabitants respecting the Offences aforesaid to any of his Majesty's Justices of the Peace, he or they shall, and are hereby obliged to hear and determine the merits of said Complaint where the same is cognizable by them under the Penalty of Ten Pounds, to be levied by Warrant of Distress for the Use of the Poor.

C A P. XIX.

An ACT declaring what shall be deemed a *Publication of the Province Laws.*

Be it Enacted by the Governour, Council and Assembly, That for the Future, Notice being given in the Nova Scotia Gazette, or other publick News Paper, or by affixing such Notice on the Church Door at Halifax, that any Law of the Province was passed in General Assembly, inserting the Title thereof, shall be deemed and is hereby made a full and proper Publication of such Law, any Thing in the above-recited Act to the contrary notwithstanding.

11. Geo. 3. Ch. 2.

Notice given in the *Nova-Scotia* Gazette or other News Paper, or affixing on Church Door the Title.

To be deemed a Publication.

C A P. XX.

An ACT for preventing Persons leaving the Province without a Pass.

HEREAS Injustice may be done to Creditors by Persons in their Debt privately leaving the Province, and great Inconveniences have likewise arisen, from Seamen in the Royal Navy and Soldiers being secretly conveyed away: For Preventing Whereof, Be it Enacted by His Excellency the Governour, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That all and every Person or Persons intending to Leave this Province, shall put up their Names publicly at the Secretary's Office, for the Space of Seven Days, before they shall obtain any Pass, with the Day and Year when they put up their Names, and in Case said Person or Persons are not, within said Seven Days, underwrote in Manner as has been usual, that then and in such Case, it shall and may be lawful for the Secretary or his Deputy, and they are hereby required, to grant said Person a Pass, for which he shall receive One Shilling only. And in Case said Secretary or his Deputy shall refuse a Pass to any Person or Persons that have complied with the Rules prescribed by this Act, he or they shall forfeit the Sum of Fifty Pounds, to be recovered by Bill, Plaint or Information in any of His Majesty's Courts of Record in this Province, and for the Use of the Person grieved.

Preamble:

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

Secretary refusing a Pass, forfeits £50.

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

“ Province

Form of the Fals.

" Province of
 " Nova Scotia } **P E R M I T**
 " this Province in the
 " bound for
 " having complied with the Act of this Province for
 " Dated

to depart
Master,
be or they

Persons underwriting another to file an Affidavit of the Debt dec,

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

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

Form of the Bond.

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

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

Secretary's Fee.

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

Actions to be brought at the next Inferior Court.

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

V. And

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

Persons underwrote to have their Passes, on giving Security.

Bonds to be delivered to Creditors.

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

Security to be given for Payment of all Debts, by Persons intending to leave the Province before the 7 Days are expired.

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

Passes to be granted at the Out Ports, by Commanding Officer, &c.

VIII. *Provided always*, That nothing in this Act shall be construed to extend to the Restraining any Military Person or Persons from immediately departing the Province, with a special Permission under the Hand of the Commander in Chief of the Troops.

Not to extend to Military Persons.

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

Persons groundlessly underwriting, liable to an Action.

X. *And be it further Enacted*, That no Master of any Ship or Vessel, going from the Port of Halifax, shall carry away any Person whatsoever, without a Pass signed by the Secretary of this Province or his Deputy, (except the Crew or Seamen brought with him in such Vessel, at his last Arrival) nor shall leave the said Harbour without Permission in Writing from His Excellency the Governor, Lieutenant Governor, or Commander in Chief for the Time being of this His Majesty's Province; And the Master of any Ship or Vessel offending contrary to the Tenor of this Act, shall forfeit the Sum of Fifty Pounds, to the Use

Masters of Vessels carrying any Person from Halifax without a Pass.

forfeit £ 50. and liable to all Damages.

of this Government, and liable to pay all Damages, to be recovered by Bill, Plaint, or Information in any of His Majesty's Courts of Record in this Province, to be levied by Sale of the Offender's Goods and Chattels, by Warrant under the Seal of said Court, and for want of such Goods and Chattels, the Person convicted to be committed to some of His Majesty's Goals for the Space of Six Months.

XI. 6. Geo. 3. Ch. 4. That the said Act and every Clause and Article therein contained, be construed to extend and shall extend to the whole Province, and that all Passes shall be given out either by the Secretary of the Province, or by such Persons as he has or shall depute for that Purpose.

extended through-
out the Province.

C A P. XXI.

An ACT for *Limitation of Actions*, and for avoiding Suits of Law.

E it Enacted by His Excellency the Governour, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That all Actions or Suits, either in Law or Equity, at any Time hereafter to be sued or brought, of or for any Lands, Tenements or Hereditaments, within this Province, whereunto any Person or Persons now hath or have any Title, or Cause to have or pursue any such Actions or Suits, shall be sued and taken within Twenty Years next after the End of this present Session of the *General Assembly*; and after the said Twenty Years expired, no Person or Persons, or any of their Heirs, shall have or maintain any such Action or Suit, of or for any of the said Lands, Tenements, or other Hereditaments; and that all Actions or suits, either in Law or Equity, of or for any lands, Tenements, or other Hereditaments whatsoever, at any Time hereafter to be sued or brought by Occasion or Means of any Title or Cause hereafter happening, shall be sued and be taken within Twenty Years, next after the Title and Cause of Action first descended or fallen, and at no Time after the said Twenty Years, and that no Person or Persons that now hath any Right or Title of Entry into any Lands, Tenements, or Hereditaments, now held from him or them, shall thereunto enter, but within Twenty Years next after the End of this present Session of the *General Assembly*, or within Twenty Years next after any other Title of Entry accrued.

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

Actions for the Recovery of Lands, &c. to be brought within 20 Years.

2. *Salk.* 421, 422,
423.

Persons not entering within 20 Years, excluded.

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

III. *Provided*

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

Saving for Minors,
&c. * 1 Lev. 31.
2. Sand. 121. Abr.
Eq. 304. † Cro.
245. 335. 1. Lev.
143. 2. Salk. 420.
Eng. Stat. 24. &
5. Ann. c. 16.

IV. *And be it further Enacted*, That all Actions of Trespas *quare Clausum fregit*, all Actions of Trespas, Detinue, Action of Trover, and Replevin for taking away of Goods and Chattels, all Actions of Account and upon the Case, (other than such Accounts as concern the Trade of Merchandize, between Merchant and Merchant, their Factors and Servants) all Actions of Debt, grounded upon any Lending or Contract without Specialty; all Actions of Debt for Arrearages of Rent, and all Actions of Assault, Menace, Battery. Wounding, and Imprisonment, or any of them which shall be sued or brought, at any Time after the End of this present Session of *General Assembly*, shall be commenced and sued, within the Time and Limitation hereafter expressed, and not after; (*that is to say*) The said Actions upon the Case (other than for Slander,) and the said Actions for Account, and the said Actions for Trespas, Debt, Detinue, and Replevin for Goods or Cattle, and the said Action of Trespas *Quare Clausum fregit*, within Three Years next after the End of this present Session of *General Assembly*, or within Six Years next after the Cause of such Action or Suits, and not after: And the said Actions of Trespas, of Assault, Battery, Wounding, Imprisonment, or any of them, within Six Months next after the End of the present Session of *General Assembly*, or within One Year next after the Cause of such Actions or Suit, and not after; and the said Action upon the Case for Words, within Three Months after the End of the present Session of *General Assembly*, or within Six Months next after the Words spoken, and not after.

Actions of Trespas
&c. to be commen-
ced within Three
Years, after the
End of of this Ses-
sion, or Six Years
after the Cause of
such Action,

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

Words within Three
Months, &c.

V. *And be it further Enacted*, That if in any of the said Actions or Suits, Judgment be given for the Plaintiff, and the same be reversed by Error, or a Verdict pass for the Plaintiff, and upon Matter alleged in Arrest of Judgment, the Judgment be given against the Plaintiff, that he take nothing by his Plaint. Writ, or Bill; or if any the said Actions shall be brought by Original, and the Defendant therein be outlawed, and shall after reverse the Outlawry; that in all such

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

such Cases the Party Plaintiff, his Heirs, Executors, or Administrators, as the Case may require, may commence a new Action or Suit from Time to Time, within One Year after such Judgment reversed, or such Judgment given against the Plaintiff, or Outlawry reversed, and not after.

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

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

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

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

unless the Judge certify, &c.

VIII. *Provided nevertheless*, That if any Person or Persons that is or shall be intitled to any such Action of Trespass, Detinue, Action of Trover, Replevin, Actions of Account, Actions of Debt, Actions of Trespass for Assault, Menace, Battery, Wounding or Imprisonment, Actions upon the Case for Words, be or shall be at the Time of any such Cause of Action given or accrued, fallen or come within the Age

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

of

of Twenty One Years, Feme Covert, Non Compos Mentis, imprisoned or beyond the Seas; That then such Person or Persons shall be at Liberty to bring the same Actions, so as they take the same within such Times as are before limited, after their coming to, or being of full Age, Discoverd, of sane Memory, at large, and returned from beyond the Seas, as by other Persons having no such Impediments should be done.

IX. *And be it farther Enacted*, That if any Person or Persons, against whom there is or shall be any Cause of Suit or Action of Trespass, Detinue, Actions of Trover or Replevin, for taking away any Goods or Cattle, or of Action of Account, or upon the Case, or of Debt, grounded upon any Lending or Contract without Specialty, of Debt for Arrearages of Rent, or Assault, Menace, Battery, Wounding, and Imprisonment, or any of them, be or shall be, at the Time of any such Cause of Suit or Action given or accrued, fallen or become, beyond the Seas, that then such Person or Persons who is or shall be intitled to any such Suit or Action, shall be at Liberty to bring the said Actions against such Person and Persons, after their Return from beyond the Seas, so as they take the same after their Return from Beyond the Seas, within such Times as are respectively limited for the bringing of the same by this Act.

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

C A P. XXII.

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

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

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

forfeit 10s.

Maliciously shooting at any Person in any Dwelling House, &c. is by Prov. Act, 32 Geo. 2. c. 13. Sett. 21. Felony with Clergy.

II. *Provided* that no Prosecution for Breach of this Act shall be admitted

Prosecution in Twelve hours.

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

Penalty on Persons under fourteen Years of Age firing out of any Gun, &c.

or any Person firing within one hundred Yards of another, either on Horseback or in a Carriage within the Peninsula of Halifax.

mitted, unless Complaint be made thereof within Twelve Hours, at least, after the Offence committed.

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

IV. 9. Geo. 3. Ch. 3. " That from and after the Publication of this Act, if any Child under fourteen Years of Age shall fire out of any Gun, Fufee or Pistol; or if any Person of what Age or Degree soever, shall unnecessarily fire out of any Gun, Fufee or Pistol, or other Fire Arm, within one hundred Yards of any Person, either on Horseback or in any Carriage within the Peninsula of Halifax; such Child or Person, their Parents, Guardians, or Masters, shall forfeit the like Sum as is inflicted by the aforesaid Act; and to be recovered, levied, and applied in like manner as is therein provided.

C A P. XXIII.

An ACT directing the Guardianship of Minors.

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

to any Persons other than Persons not Protestants,

Who may have Action against persons wrongfully detaining them.

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

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

II. And be it further Enacted, That any Persons, to whom the Custody of such Children shall be so disposed or devised, may take into their Custody, to the Use of such Children, the Profits of all Lands, Tenements

Tenements, or Hereditaments, and also the Management of the Goods and Personal Estate of such Children, till their respective Age of Twenty One Years, or any lesser Time, according to such Disposition, and may bring such Actions in Relation thereto, as such Children themselves might do if arrived at full Age.

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

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

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

vishment

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

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

2 Inst. 14. 4. Co: 126. *Bewerley's Case.* *Standsford's Prerog.* 37.

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

vishment of Ward or Trespass, against any Persons who shall wrongfully take away or detain such Heirs, for the Recovery of such Heirs, and shall recover Damages in the said Action, for the Use of such Heirs.

and may take into their Custody the Profits of all Lands, &c. of such Minors.

VI. *And be it further Enacted*, That such Person, to whom the Custody of such Heirs shall be so disposed, may take into their Custody, to the Use of such Heirs, the Profits of all Lands, or Tenements, and also the Management of the Goods and Personal Estate of such Heirs, till their respective Age of Twenty One Years, or any lesser Time, according to such Disposition, and may bring such Actions in Relation thereunto as such Heirs might do, if arrived at full Age.

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

VII. *And be it further Enacted*, That if such Person to whom such Grant shall be made of the Custody of such Children, shall die before he hath yielded an Account unto the said Heirs, of the Profits of such Lands or Tenements, and the Management of such Goods and Chattels, deducting all necessary and just Charges, the Heirs, Executors, or Administrators of such Guardian, shall be liable, and yield a full Account unto the said Heir, his Executors and Administrators, of such Profits, Goods, and Chattels, Real and Personal, so received by the Guardian, for the Benefit of the said Heirs, deducting all necessary and just Charges as aforesaid, so far as they shall have Assets from the said Guardian, or in his Right at the Time of Demand of Satisfaction for the same; and if the said Children shall die before they shall attain to their Age of Twenty One Years, it shall be lawful for the Executors or Administrators of such Children to call the Persons so trusted for the Benefit of them, and the Heirs, Executors, or Administrators, to an Account for the same.

This Act not to extend to discharge Apprentices, &c.

VIII. *Provided always*, That this Act shall not extend to discharge any Apprentice from his Apprenticeship, or such poor Children, as may hereafter be bound out by the Overseers of the Poor, or such Children as may hereafter be found proper Objects of their Care, as is provided for by Law.

Provision for Posthumous Children.

IX. *And forasmuch as it often happens, that Children are not born till after the Death of their Fathers, and also have no Provision made for them in their Wills, Be it therefore further Enacted by the Authority aforesaid*, That as often as any Child shall happen to be born after the Death of the Father, without having any Provision made in his Will, every such Posthumous Child shall have Right and Interest in the Estate of his or her Father in like Manner as if he had died Intestate, and the same shall accordingly be assigned and set out as the Law directs for the Distribution of the Estates of the Intestates.

C A P. XXIV.

An A C T for confirming the past Proceedings of the Courts of Judicature.

E it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted,
 That all Rules and Orders, Proceedings, Pleadings, Sentences, Verdicts and Judgments, in the *Supreme Court, Court of Assize, and General Goal Delivery, Courts of Common Pleas, and Courts of General Sessions of the Peace, and all Executions awarded thereon, prior to this Act, shall be, and are hereby ratified and confirmed. And all Proceedings and Judgments heretofore had and made, before any Two Justices, or One Justice, are hereby ratified and confirmed.*

Former Proceedings confirmed.

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

C A P. V.

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

E it Enacted by the Lieutenant Governor, Council and Assembly, That the ordering and governing the House of Correction or Work House, shall be in the Justices of the Peace in their Quarter Sessions, (except three Rooms, which shall be reserved for the Reception of the Poor, under the

3. Geo. 3. cap. 9.
 The Work-house to be under the Direction of the Justice in Quarter Sessions, (except three Rooms for the Reception of Poor,

T

Direction

which shall be under the Direction of the Overseers of the Poor) who shall agree with a Keeper of the said House, &c.

Three of the said Justices to have the Inspection of the House, one of whom shall visit the same once every Week.

Justices to commit Offenders.

Keeper to set Offenders to work,

and to punish them by Whipping.

Persons committed not to be chargeable to the Government.

Direction of the Overseers of the Poor) and the said Justices are hereby also impowered to agree with any Person to be Master or Keeper of the said House, (excepting the three Rooms before excepted) upon the best Terms they can, for such Time as they shall think adviseable, public Notice being first given in the *Halifax Gazette* for that Purpose, and such Master or Keeper shall account with the said Justices in *Sessions*, once in every Three Months, (if required) therein stating as well the Expences of attending the said House, as all the Earnings of the same.

II. 3. *Geo. 3. Ch. 9. Sec. 2. And be it further Enacted*, That the said Justices shall nominate Three of their Bench Quarterly, to have the Inspection of the said Work-House, One of which Justices in Rotation shall visit the same at least once every Week, to see that such Persons as shall be committed thereto, are diligently to Work; and to rectify any Abuses that may be found in the Management thereof.

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

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

V. *And be it further Enacted*, That no Person committed to the said House of Correction, shall be chargeable to the Government for any Allowance, either at going in or coming out, or during the Time of their Abode there: But shall be maintained out of their Earnings, and the

the Remainder thereof shall be accounted for, by the Master or Keeper of the said House; who shall keep an exact Account thereof, and render the same upon Oath, if required, to the said Overseers when demanded.

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

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

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

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

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

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

Provide not to carry them out of the Province.

Children in the Orphan House excepted.

shall remain and be under the Direction of the Governor as heretofore, and bound out in such Manner as he shall order and direct.

Sick and weak persons to be sent to the Work-house, by the Overseers of the Poor only, to be there relieved.

IX. 3. Geo. 3. Ch. 9. Sec. 3. That it shall be in the Power of the Overseers of the Poor of the Town of *Halifax* only, to send such sick and weak Persons to the Work House, there to be relieved by their Direction, and the Expence thereof to be defrayed out of such Taxes, or Poor's Rate, as shall be granted and collected for the Town of *Halifax*.

The Clause relating to the binding out poor Children to extend through the Province.

X. Sec. 4. That the Directions relating to the binding out poor Children and Orphans, contained in the clause aforesaid shall for the future extend, and be construed to extend, to all the other Towns in this Province.

C A P. II.

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

Preamble.

~~WHEREAS~~ *HEREAS* by an Act of the General Assembly of this Province, intituled An Act for erecting a Light House at the Entrance of the Harbour of *HALIFAX*, made and passed at their Session begun and holden at *Halifax*, the Second Day of October, 1758, the Sum of One Thousand Pounds out of the Monies then in the Treasury of the Province, collected from the Duties on Spirituous Liquors, was appropriated for the erecting a Light House on the Island commonly called and known by the Name of *Sambró* Outer Island, at the Entrance of the Harbour of *Halifax*: And it was Enacted, that until such Light House should be erected the Commissioners appointed for carrying the said Act into Execution, should cause a Beacon and Light to be placed on the said Island for the Benefit of Vessels coming into the said Harbour, Be it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That from and after the First Day of September next, there shall be paid by the Master of every Merchant Vessel coming into, or going out of the Harbour of *Halifax*, at her going-out of the

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

the said Harbour, (other than Coasters and Fishing Vessels, and such Transport or other Vessels employed in His Majesty's Service as shall, by their Charter Party, be exempted from paying Port Charges) a Duty of Six Pence per Ton Currency, for so many Tons as shall appear to the Satisfaction of the Receiver, or by the Oath of the Master, (which Oath the said Receiver is hereby authorised to administer) to be the real Burthen thereof.

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

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

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

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

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

What Vessels deemed Coasters &c.

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

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

And the Surplus to the Uses of the Government.

C A P. III.

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

Preamble.

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

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

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

were

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

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

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

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

Such Actions to be
dismissed, upon
due Proof thereof.

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

C A P. IV.

An ACT for regulating Juries and declaring the Qualification of Jurors.

Qualification of Ju-
rors.

~~WHEREAS~~ *It* Enacted by the Governor, Council and Assembly, and by the Authority of the same it is hereby Enacted, That no Person shall be Qualified to serve as a Grand Juror, unless such Person shall be possessed of a Freehold in the County where he resides, of the clear yearly Value of Ten Pounds, or of a personal Estate of the Value of One Hundred Pounds. And that no Person shall be qualified to serve as a Petit Juror, unless he hath a Freehold Estate of the value of Twenty Shillings a Year, or is possessed of Ten Pounds in personal Estate.

Sheriff to make out
lists,

II. *And* be it further Enacted, That the Sheriffs of each County shall once a Year, viz. On or before the Tenth Day of April make out a list of all Persons qualified as aforesaid, who have resided within said County for three Months preceeding, and return the same into the Clerks Office of the several Courts where they are to serve, who shall thereupon cause the Names of the Persons so returned to them respectively to be written on distinct Pieces of Paper, which shall be severally rolled up, and put into the Box to be lockt up and kept by each of said Clerks of said Respective Courts.

The Juries to be
drawn before the
End of the Term,
to serve at the next
ensuing Term,

III. 8. *Geo. 3. Ch. 8.* *And* be it also Enacted, That it shall and may be lawful for the *Supreme Court*, and the respective *Inferior Courts* and *Quarter Session*, on or before the last Day of their Sittings in each Term, to draw from the Box or Boxes deposited with the respective Clerks, such, and so many Rolls or Tickets of Names as may be sufficient to serve as Grand Jurors and Petit Jurors for the Term or Sittings of the said *Supreme Court* and *Sessions of the Peace*, and of Petit Jurors for said *Inferior Court*, next ensuing the Term or Sittings, wherein the said Grand and Petit Jurors shall be so drawn as before directed.

Precept by whom
signed.

IV. *And* it is hereby further Enacted, That a Precept for summoning the said Grand and Petit Jurors, when so drawn, shall be signed by the Chief or Eldest sitting Justice of the *Supreme Court*; and
first

first Justice of each *Inferior Court* and *Sessions of the Peace*, and that each and every Clerk of the said respective Courts, shall by Virtue of said Precepts, Ten Days before the Meeting of the then next ensuing Courts, issue out a *Venire Facias* for summoning the said Grand and Petit Jurors, pursuant to the Tenor of said Precepts.

V. *And be it further Enacted*, That every Person summoned and returned as aforesaid to serve as a Juror who (without sufficient Reason to be judged of by the Court) shall refuse or neglect to give his Attendance on the first Day of the Sitting of said respective Courts, shall forfeit the Sum of *Five Pounds*, and for every Days neglect of Attendance afterwards during said Term; if a Grand Juror Twenty Shillings and a Petit Juror Ten Shillings to be paid into the Office of the Clerks of the respective Courts to be by them paid into the Treasury for the use of the Province.

Persons neglecting or refusing to attend.

VI. *And be it also Enacted*, That in Case of a Deficiency of Grand Jurors, the number shall be completed by Drawing the same in open Court, and all Deficiencies of Petit Jurors to be filled up *de talibus Circumstantibus*, to be immediately returned by the Sheriff, his Deputy, or the Coroner, where the Sheriff is related or a Party concerned.

VII. 7. *Geo. 3. Ch. 2. Be it Enacted*, That any Person residing in the Island of *Cape Breton*, or *St. John's* in this Province, not being a Freeholder, but that shall have personal Estate to the Value of *Ten Pounds* and upwards, shall be obliged to serve on Juries, and in case of Neglect or Refusal, shall be subject to the Penalties imposed by the above Act; all Persons so summoned may disqualify themselves by making Oath before the Court, that they are not possessed of personal Estate to the Value of *Ten Pounds*.

Qualification of Jurors in the Islands of *Cape Breton* and *St. John's*.

VIII. 17. *Geo. 3. Ch. 4.* That each and every Person who shall be drawn as a Grand Juror at the *Supreme Court*, which shall hereafter be held for each respective County in this Province, shall serve as such at the said *Supreme Court* and *Courts of General Sessions of the Peace* during one Year; from the time of their being sworn in at either of the said Courts.

Grand Jurors to serve at the *Supreme Court* and *Court of Sessions* for one Year

IX. *And be it further Enacted*, That no Person who hath served as a Grand Juror, shall be compelled to serve as a Petit Juror in the same Court within One Year from the Time of such his Attendance.

X. *And be it further Enacted*, That Grand Juries shall not be obliged to attend more than *Six Days* at each Term of the *Supreme Court*, not more than three Days at each Term of the *Quarter Sessions*, unless upon some special Occasion, and that Petit Juries shall not be obliged to attend more than *Ten Days* from the First Day of the sitting of either of said Courts.

Grand Jurors to attend no more than 6 days, at *Sup. Court* 3 days, at the *Sessions* 10 days, at either Court.

Priviledged Persons

XI. *Provided always*, That the Members of His Majesty's Council, the Members of the Assembly, the Treasurer of the Province, Register of Deeds, Chief Surveyor of the Crown Lands, Secretaries, Ministers, Officers of his Majesty's Customs, Naval Officer and his Deputy, Attornies at Law, officers of his Majesty's Courts, Commissary of the Ordnance Stores, and Surgeons, shall be excused from serving as Jurors.

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

C A P. I.

An ACT to prevent *Gaming*.

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

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

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

1. *Strange* 495.

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

or

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

II. *And be it further Enacted*, That from and after the Publication hereof, any Person or Persons whatsoever, who shall by Playing at Cards, Dice, or Tables, or any other Game or Games whatsoever, or by Betting on the Sides or Hands of such as do play at any Game or Games as aforesaid, within Twenty Four Hours, or at any one Meeting or Sitting, lose to any one or more Person or Persons, so Playing or Betting, any Sum or Sums of Money, exceeding the Sum of Twenty Shillings, or any other valuable Thing or Things whatsoever beyond the Value of the Sum of Twenty Shillings, and shall pay or deliver the same or any Part thereof, the Person or Persons so losing and paying or delivering the same, shall be at Liberty, within One Month then next following, to sue for and recover the Money or Goods so lost and paid or delivered, or any Part thereof, from the respective Winner or Winners thereof, with Costs of Suit, by Action of Debt founded on this Act; to be prosecuted in any of His Majesty's Courts of Record, in which Action it shall be sufficient for the Plaintiff to alledge that the Defendant or Defendants are indebted to the Plaintiff, or received to the Plaintiff's Use, the Monies so lost and paid, or converted the Goods won of the Plaintiff to the Defendant's Use, whereby the Plaintiff's Action accrued to him according to the Form of this Act; and in Case the Person or Persons who shall lose such Money or other Thing as aforesaid, shall not, within the Time aforesaid, really and *bona fide*, and without Covin or Collusion, sue and with Effect prosecute for the Money or other Thing so by him or them lost and paid, or delivered as aforesaid, it shall and may be lawfull to and for any Person or Persons, within One Month thereafter, by any such Action or Suit as aforesaid, to sue for and recover the same with Costs of Suit, against such

*Exp. Stat. 9. An.
c. 14. Sect. 2.
Persons losing more
than 20s. within
24 Hours.
1. Salk. 345. Dickes
versus Parulet.
2. Mod. 54. Hill
versus Pheasant.
2. Stra. 1079. Tur-
ner versus Warren.*

may sue for and re-
cover the same
from the Winner
within One Month;

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

any other Person
may sue for and
recover the same
within One Month
after.

such Winner or Winners as aforesaid; the one Moiety thereof to the Use of the Person or Persons that will sue for the same, and the other Moiety to the Use of the Poor of the Town where the Offence shall be committed.

One Half to the Use of the Poor.

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

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

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

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

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

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

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

C A P. II.

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

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

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

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

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

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

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

Persons falsely affirming to suffer as if guilty of Perjury

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

Criminal Causes excepted.

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

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

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

To be deemed a Publick Act.

C A P. III.

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

Preamble.

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

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

on Penalty of 10s. or

four Days Labour in the Highway,

on Refusal to be whipped Ten Stripes.

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

on Penalty of 20s.

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

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

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

Fines to be applied to repair Highways.

C A P. IV.

An ACT for the better and more effectual Establishment of the Church of England in this Province.

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

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

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

Ecl. Ang. Tit. 9. Church Wardens, &c. to be chosen annually, in Manner prescribed for the Parish of St. Paul's in Halifax.

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

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

C A P. V.

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

Preamble.

Justices in Sessions
to regulate Rates
for the Carriage of
Wood, &c, in Ha-
lifax.

HEREAS the Rates and Price demanded by the Owners of Trucks, Carts, and other Carriages of Goods, Wares and Merchandize, are very exorbitant and excessive, and burthen-
some to Trade: In Order, therefore, to remedy the same, Be it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That the Justices in their General Sessions of the Peace, held for the County of Halifax, shall twice every Year, in the Month of March and in the Month of September, regulate the Fares and Rates for the Carriage of Wood, Barrels, Hogheads, and other Wares and Merchandize in the Town of Halifax and its Suburbs, Consideration being had to the Price of Hay, Provender for the Cattle, and Price of Day Labourers; and shall cause a Table of the several Rates agreed upon by them at their Sessions to be printed and posted up in the most public Places in and about the Town of Halifax.

Carmen, &c. de-
manding any greater Rates, forfeit 20s

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

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

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

At the GENERAL ASSEMBLY of the Province of *Nova Scotia*, begun and holden at *Halifax*, on the Fourth Day of *December*, Anno Domini 1759, and in the Thirty Third Year of the Reign of Our Sovereign Lord GEORGE the Second of *Great Britain, France and Ireland*, KING, Defender of the Faith, &c. and there continued by several Prorogations until the Eight Day of *September*, Anno Domini 1760, in the Thirty Fourth Year of His Majesty's Reign, being the Second Session of the *Second General Assembly* convened in this Province.

C A P. I.

An Act for the ascertaining Damages on protested Bills of Exchange.

BE it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That from and after the Second Day of *October*, One Thousand Seven Hundred and Sixty, all Bills of Exchange drawn from and after said Time, by Persons residing within this Province, upon Persons in Europe, that may be sent back protested shall be subject to Ten per Cent. Damages, and Six per Cent. per Annum Interest, from the Day of the Date of the Protest on said Bill, to the Time of Payment. And be it also Enacted by the Authority aforesaid, that all Bills of Exchange drawn by Persons residing within the Province, after said Time, on Persons in the other Colonies, and sent back protested, shall be subject to Five per Cent. Damages, and Six per Cent. per Annum Interest, from the Day of the Date of the Protest to the Time of Payment

II. And be it further Enacted by the Authority aforesaid, That all Bills and Orders drawn from and after the said Second Day of *October* next, by Persons residing within the Province on Persons living or residing in the same, that shall be protested, shall be subject to Six per Cent. Interest from the Date of the Protest to the Time of Payment.

Foreign Bills of Exchange.

Cro. Car. 301.
Barnaby versus Rigalt. 1. Vent. 45.

Inland Bills of Exchange.
Eng. St. 9. & 10.
Will 3. c. 17.
Eng. Stat. 3. & 4.
An. c. 9. made perpetual by 7. Ann. c. 25. S. B. 3.
1. Salk. 131. Borough, versus, Parkins.

C A P. II.

An Act for Establishing a Public Market at the Market House in Halifax, and for regulating the same.

The Market House to be open from Sun rise to One o'Clock, every Day in the Week, and on Saturdays till Ten o'Clock at Night.

Be it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That the Market House newly erected in the Town of Halifax, shall be open on Mondays, Tuesdays, Wednesdays, Thursdays, and Fridays, from Sun rise to One o'Clock in the Afternoon, and on Saturdays from Sun rise to Ten o'Clock at Night, for the Reception of all kinds of Butchers Meat, Poultry both alive and dead, Roots, Greens, Fruits, and other Vegetables, which may be brought for public Sale therein. The First Market Day to be held on Monday the Thirteenth Day of October next ensuing, and so to continue in Manner aforesaid.

A Keeper to be appointed by the Governor,

II. *And be it further Enacted by the Authority aforesaid, That a proper Person shall be appointed by the Governor or Commander in Chief, to be Keeper of the said Market House, who shall open and shut the same at the Times herein appointed, and cause it to be kept clean, sweet, and in good Order: And the said Keeper is hereby empowered to let the Stalls, and to sue for, recover, and receive, from the Persons who shall occupy the same, the Monies arising from the Rents, agreeable to the several Rates herein after mentioned; which Monies he shall account for upon Oath, and pay to the Treasurer of the Province once every Three Months; and for his Services in this Office he shall receive a Salary not exceeding Forty Pounds per Annum.*

his Duty and

Salary.

Keeper to have the Power of a Constable.

III. *And Whereas Disputes and Controversies do often arise in public Markets, which end in Quarrels and Frays; for preventing whereof as much as possible, Be it Enacted by the Authority aforesaid, That the said Keeper of the Market House shall be invested with all the Power and Authority of a Constable, in all Matters relative to the keeping Peace and Order in the said Market; and shall accordingly be sworn into that Office, before any Two of His Majesty's Justices of the Peace, or at the next General Sessions of the Peace for the County of Halifax, after his Appointment.*

Rates for the Stalls.

IV. *And be it further Enacted, That every Person who shall hire One of the said Stalls by the Quarter or any longer Time, shall pay Quarterly to the Keeper at the Rate of Eight Pounds per Annum for the same; and those who shall hire any of the said Stalls for a shorter Space of Time, shall pay at the Rate of One Shilling and Six*

Six Pence per Day to the said Keeper; but live Poultry, Fruits, Greens and other Vegetables, shall be exposed to sale on the Benches under the Piazza, Rent free.

V. *And be it farther Enacted*, That the Persons exposing to Sale, any Butchers Meat, Poultry, alive or dead, Roots, Greens, Fruit, or other Vegetables, as well within the said Market House, as without under the Piazza, shall constantly keep the same clean, sweet, and in good Order, to the Satisfaction of the said Keeper, on Penalty of forfeiting to the said Keeper the Sum of Two Shillings and Six Pence for each and every Neglect; and the said Keeper is hereby empowered immediately to demand the same, and in Case of Refusal, the same shall be levied by Warrant of Distress from any one Justice of the Peace, with Costs.

VI. *And be it also Enacted*, That if any Person shall sell or expose to Sale, any of the before mentioned Commodities within the Town or Peninsula of *Halifax*, or on board of any Vessels in the Harbour thereof, until such Commodities shall have been first carried to the Market House, and there publickly exposed to Sale, during the Market Hours; or if any Person or Persons whatsoever shall presume to sell or Expose to Sale, on board any Vessel in the Harbour, or in any Shop, or Stall within the Town and Suburbs of *Halifax*, (other than in the said Market House) any Butchers Meat or other the Commodities above mentioned, during the Market Hours herein before appointed; he shall forfeit a Sum not exceeding Five Pounds for every such Offence; to be sued for and recovered before any Two of His Majesty's Justices of the Peace for the said County: One Moiety to be paid by the said Justices to the Treasurer of the Province, for the Uses of the Government, and the other Moiety to the Persons who shall inform and sue for the same.

VII. *Provided always*, That nothing in this Act contained, shall debar the Agents or Contractors for Victualling his Majesty's ships, and the Army, to import the necessary Provisions for fulfilling their respective Orders or Contracts, without exposing them to public Sale, as is herein before directed.

VIII. *And be it further Enacted*, That all the Monies arising from the Rents of the said Market House, over and above the Keeper's Salary, shall be applied to the keeping the said Market House in proper Repair, under the Inspection of the Clerks of the Market for the Time being; and the Surplusage, if any be, is hereby granted to His Majesty, and shall remain in the Hands of the said Treasurer, to be applied in the first Place, for building a public Slaughter House, and thereafter for the Uses of the Town of *Halifax* only.

Live Poultry &c. to be sold in the Piazza.

Persons selling Meat, &c. to keep the House clean, on Penalty of 2s. 6d.

Penalty £5. for selling Meat, &c. out of the Market, before it has been brought there and exposed to Sale during Market Hours.

Not to extend to Contractors for victualling the Army and Navy.

Application of the Money raised by Stalls.

Persons coming from the Country with dead Meat, &c. may sell the same at any Time to any Person, (not being a Butcher or Huckster) and may sell the same in the Market House without any Expence for Stallage.

IX. 7. Geo. 3. Ch. 7. *It is Enacted*, That any Person coming from the Country with any Quantities of Dead Meat, Poultry and Pigs, alive or dead, Roots, Greens, and other Vegetables, shall have free Liberty to sell and dispose of the same by Hand, in any of the Streets or Lanes of the Town of Halifax, to any of the Inhabitants of said Town (not being Butchers or Hucksters) at any Time, whether within Market Hours or without, and that such Persons shall have free Liberty to carry the same to the Market House, to be sold and disposed of there, without being put to any Expence for Stallage; any Law Usage, or Custom to the contrary notwithstanding.

C A P. III.

An Act for appointing Commissioners of Sewers.

Preamble.

~~WHEREAS~~ *HEREAS* great Quantities of Marsh, Meadows, and low Grounds, in the Province, and particularly in the Bay of Fundy and Rivers, Bays and Creeks, branching therefrom, are spoiled by overflowing of the Sea and other Waters, which by Industry may be greatly improved, as well for the General Good as for the Benefit and Profit of the Owners; and also much Meadow and Pasture Land might be gained out of Swamps, and other rough and unprofitable Grounds by drowning and draining the same: To the Intent therefore, that the new Settlers and other Proprietors of such Marshes, Meadows and low Grounds, may be encouraged and enabled to raise Dykes, and remove such Obstructions as prevent those Lands from being immediately useful, Be it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That it shall be in the Power of the Governor or Commander in Chief, with the Advice of His Majesty's Council, upon Request of any of the Proprietors of such Lands, to grant Commissioners of Sewers, to such and so many able and discreet Persons as to them shall seem meet, for the building and repairing such Dykes and Weirs as are necessary to prevent Inundations; and also for the damming and flowing of Swamps, and other unprofitable Grounds, and draining of them: By which Commissions the said Commissioners shall be empowered to meet and convene together from Time to Time as Occasion may require, to view, consider, consult, and contrive such Ways, and Methods for building and repairing such Dykes and Weirs, as are necessary to prevent Inundations, and for the drowning and draining of Swamps, and other unprofitable Grounds; and to employ Workmen and Labourers, for such reasonable Wages as may be agreed on, for the effecting the Premises; and from Time to Time to assess and tax all such Persons as may or shall be Owners of such Meadows, Marshes, or such unprofitable Swamps and Lands as aforesaid, towards the Charge thereof, having Regard to each Person's Quantity of Land and Benefits to be received thereby, as equally, according

Commissioners of Sewers to be appointed by the Governor and Council,

their Power and Authority.

according to their best Judgment, as they can ; and also to appoint and swear a Collector or Collectors for the collecting, gathering, and paying the same, to such Persons as by the said Commissioners shall be appointed to receive it ; with Powers to distrain all such Persons as shall neglect or refuse to make Payment of his, her, or their Parts or Proportions, set and assessed as aforesaid, in such Manner as is usually done in the like Cases ; and to call before themselves the said Collector or Collectors, to account for his or their Trusts with Reference to the Premises ; and likewise to value such Repairs as may have been made to the said Weirs and Dykes, by the present Settlers before the Date of their said Commissions, and to proportion an Assessment for Payment of the same by those who have been or may be benefited thereby, in the same Manner as if such Repairs had been made by their own Order, in Virtue of their said Commissions.

1. Sid. 145.

II. *And be it further Enacted by the Authority aforesaid,* That the said Commissioners shall be sworn for the faithful Discharge of their Trust and shall receive such Salaries out of the said Assessment, for their Time and Expences touching the Premises, as the Governor and Council shall appoint, unto whom the said Commissioners shall be accountable, when they shall be thereto required.

to be sworn and have Salaries.

III. 3. Geo. 3. Ch. 1. *Be it Enacted,* That upon Complaint being made on Oath, before any One of His Majesty's Justices of the Peace for the County where such Complaint lies, by the Collector or Collectors appointed by the Commissioners of Sewers, for the collecting or gathering the Assessments made by the said Commissioners, the said Justice upon such Complaint, is hereby impowered and authorized, to grant a Warrant under his Hand and Seal, directed to any One of the Constables for the said County, to levy of and from the Goods and Chattels of such Person or Persons so neglecting or refusing to pay his, her, or their Part or Proportion of such Assessment, by Distress and Sale of the said Goods and Chattels, the full Sum so assessed with Costs for prosecuting the same, which Costs shall not exceed the Sum of Five Shillings, and for want of Goods and Chattels to apprehend the Bodies of all such Delinquents, and commit them to safe Custody, till full Satisfaction and Payment be made as aforesaid.

Justices impowered to grant Warrants for levying Assessments on the Goods, &c. of such as refuse to pay.

with Five Shillings Costs.

IV. 5. Geo. 3. Ch. 4. *Be it further Enacted,* That any Proprietor or Proprietors of any Lands dyked in, or drained, as directed in and by the before mentioned Act, being present and not having any Goods or Chattels, to answer his, her, or their Dividend or Proportion of any Assessment made by Commissioners of Sewers according to Law, it shall and may be lawful for any One of his Majesty's Justices of the Peace for the County where such Lands lie, to let out any Part of such Delinquent's Lands, that may be suf-

Delinquent Proprietor's Lands, to be let out by one Justice to pay their proportion for Dyking &c.

sufficient to pay by the Produce of the same; any such Dividend or Proportion of the Sum to due.

Lands of absent Proprietors may be sold, to pay their Proportion for dyking and draining the same, if no Distress can be found on the Premises, &c.

V. 9. Geo. 3. Ch. 2. *It is Enacted*, That if no Person shall appear to pay the Dividend or Proportion of any delinquent Proprietor, in any Assessment made according to Law, for the dyking or draining such Lands, or no sufficient Distress shall be found on the Premises to answer such Assessment as aforesaid, the Commissioners of Sewers shall, by Advertisement, during three Months in the Public Prints, cause Notice to be given for the letting out the Lands of such delinquent Proprietor, and if no Person shall then appear to hire the same, it shall and may be lawful for the said Commissioners, or any three of them, to order the Sheriff or his Deputy, to sell at Public Auction, to the highest Bidder, so much of such Delinquent's Lands, so dyked in and drained, as may be sufficient to pay any such Dividend or Proportion of the Sum due as aforesaid, with the Charges; being first appraised on Oath by three Persons to be appointed by Warrant under the Hands and Seals of the said Commissioners; and the Sheriff or his Deputy is hereby fully empowered and directed, immediately to execute a Deed thereof, and deliver Seizure and Possession of the same to the Purchaser or Purchasers; (for which the said Sheriff or his Deputy shall receive a Fee of Ten Shillings and no more) any Law, Usage or Custom to the contrary notwithstanding.

Owner &c. of Marsh Lands shall attend himself or send a sufficient Labourer in common Cases, to work in raising Dykes &c.

VI. 8. Geo. 3. Ch. 9. *Be it Enacted by the Lieutenant Governor Council, and Assembly*, That from and after the Publication hereof, each and every Owner or Possessor of Marsh Lands in any Township, District, or Place, within this Province, (where Commissioners of Sewers are appointed) shall in all common Cases, either in raising new or repairing old Dykes, or draining Lands, attend either by himself or provide a sufficient Labourer with proper Tools, to work at the Time and Place appointed by the said Commissioners of Sewers, agreeable to the Rules and Regulations made for that purpose; and when it shall happen that any Owner or Possessor of any such Marsh Lands in any Township, District, or Place, shall have, occupy, or receive, the Produce of a greater Quantity of said Lands than one Right or Share, in such Marsh, that then and in such Case every Owner or Possessor shall furnish a Number of Labourers in Proportion to their respective Quantities of Lands, as agreed on by the Commissioners of Sewers: And where it may be necessary to employ Oxen or Carts, for the more expeditiously carrying on their Work, each and every Owner or Possessor of such Lands, who have Oxen or Carts, shall in like Manner be obliged to attend with, or send such Oxen or Carts for the Work aforesaid, and in the aforesaid, Proportion, in Lieu of Labourers.

In Proportion to the Quantities of Lands he shall possess.

Oxen & Carts may be employed in lieu of Labourers.

II. *Provided*

VII. Sect. 2. *Provided always*, That such Owner or Possessor of such Lands to be dyked or drained, shall have at least *Six Days* Notice of the Time and Place where such Work is required to be done, by one or more of the Commissioners of Sewers, or by some Person appointed by them for that Purpose.

Six Days Notice to be given of the Time and Place where the work is to be done.

VIII. Sect. 3. *And be it further Enacted*, That in Case of any sudden Breach in any Dyke, or where any Breach is likely to be made or Inundation occasioned by Storms, high Tides, or otherwise, each and every Owner or Possessor of Land within such Dykes shall immediately, on Notice being given by any one or more of the Commissioners of Sewers or Persons appointed by them, repair to the Place directed, with proper Tools, to labour and use their utmost endeavours to repair such Breach or Place likely to be a Breach; and shall continue to work from Day to Day on the same, so long as the Commissioners of Sewers shall judge it absolutely necessary, for preserving the Land and Produce within such Dyke from Damage.

In case of any sudden Breach in any Dyke &c. every Owner or Possessor of Lands within such Dyke, shall immediately repair to the Place directed, and endeavour to repair such Breach, &c.

IX. Sect. 4. *And be it also Enacted*, That if any Owner or Possessor of any Marsh or Dyke Lands within any Township, District, or Place within the Province as aforesaid, shall neglect or refuse to attend and labour, or to send a sufficient Number of Labourers at the Time and Place to be appointed by the Commissioners of Sewers as aforesaid, in Proportion to the Quantity of Land in his or their Possession, (due Notice having been given as aforesaid) each and every delinquent Owner or Possessor of such Lands shall forfeit and pay, over and above the Assessment or Tax to be made by virtue of the aforementioned Act, the Sum of Five Shillings for every Day's Neglect or Refusal for each and every Labourer such Owner or Possessor of such Lands ought to have sent. And if such Owner or Possessor of such Lands shall neglect or refuse to attend and labour, where any sudden Breach shall happen, or be likely to happen to any such Dykes, on immediate Notice given to such Owner or Possessor such Delinquent Owner or Possessor shall forfeit and pay the Sum of Ten Shillings for each Day's Neglect, for each and every Person which should have been sent by him, and so in like Proportion for Oxen and Carts; to be recovered by Warrant of Distress, on Conviction before any one of His Majesty's Justices of the Peace for the County where the Offence shall be committed, and for want of Goods and Chattels to satisfy such Distress and Charges, the Lands of such Delinquent, or so much as shall be sufficient, shall be held and let out by said Justice until the Produce thereof shall amount to the Fine and Charges so levied, in the same Manner as is directed by Law for a Delinquent's Proportion of Assessments or Taxes for making and repairing Dykes, and the Monies arising from such Fines to be paid into the Hands of the Commissioners of Sewers to be appropriated for the making and repairing Dykes, in the Township, District, or Place, where the same shall be recovered.

Penalties on Owners or Possessors of Marsh or Dyke Lands, refusing or neglecting to labour

To be recovered before any Justice of the Peace for the County.

and appropriated for making and repairing Dykes.

When the Sods or Soil are cut off the Land of any Proprietor, in any Tract of Marsh-Land, dyked in common for making Dykes, or, that the Land of any Proprietor is washed away, and he shall loose a part or whole of his Lot, for the making Dykes to secure the piece of Marsh Land to held in common

the Commissioners of Sewers shall cause a valuation to be made of the Loss sustained; and the same shall be made good by an Assessment, or by other Lands.

X. 21. Geo. 3. Ch. 3. *Be it Enacted, by the Lieutenant-Governor Council and Assembly,* That when it shall appear that the Sods or Soil shall have been cut off the Land of any Proprietor, in any Tract of Marsh-Land dyked in common with other Proprietors, for the Purpose of dyking in the same, or, that the Land of such Proprietor shall have been washed away by the Tide or Current of the River, and that by the making of new Dykes, to secure the said Piece or Tract of Marsh-Land so held in Common, such Proprietor shall have lost a Part or the whole of his Lot, it shall and may be lawful for the Commissioners of Sewers of the Township, to cause a just Valuation to be made of the Loss, such Proprietor shall have sustained as aforesaid, which Valuation shall be made by at least five Freeholders, not interested in the Piece or Tract of Marsh, where such Loss shall have been sustained, who shall be sworn truly and impartially to Value the same; and if it shall happen that there is in such Tract or Piece of Marsh-Land, a sufficient quantity thereof, lying in Common and undivided, to make good the Loss so sustained, the Commissioners of Sewers shall decree Possession thereof, or so much thereof as is sufficient to make good the same to such Proprietor; or, on failure of such undivided Land, by an Assessment for the Value thereof, to be paid in a just Proportion among the other interested in such Piece or Track of Marsh-Land.

XI. *Provided always,* That any Person thinking himself aggrieved at any Procedure had or made by the said Commissioners, or any others in Pursuance of this Act, may appeal therefrom to the Governor and Council for Relief, who are hereby impowered to order the Possession of all such Lands as are held for Payment of the Assessments beforementioned, to be restored to the Proprietor on Proof before them, that the said Assessments have been received out of the Profits of the same.

Appeal to the Governor and Council.

C A P. IV.

An ACT for encouraging the Improvement of Lands in the Peninsula of *Halifax*, and further quieting of Possessions.

Preamble.

HEREAS great Inconveniencies and Prejudices have arisen, *W*on Account of not improving the Lands on the Peninsula of *Halifax*: And Whereas by the Absence of several Grantees, and the Neglect and Death of others, many of the Lots lie waste: In order therefore to encourage the Improvement of the Lands within the said Peninsula, *Be it Enacted* by his Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That in all Cases where the Grantees of Lands within the said Peninsula, have been

Lands within the Peninsula of *Halifax*, not improved for seven Years past

been Absent from the Province, or have lived therein, for the Space of Seven Years, and no Improvement made thereon for that Time ; and likewise in such Cases where any Grantees of Lands are dead, and no Persons in Right of such Grantees have claimed said Lands ; it shall and may be lawful, upon an Inquest of Office, on the Oaths of Twelve Men sworn for that Purpose, held before the Commissioner of Escheats and Forfeitures, according to the Commission to him granted *, and duly returned into the Office of Register of the Court of Chancery, for the Governor, or Commander in Chief for the Time being, with the Advice and Consent of His Majesty's Council, to make Grants and Conveyances of such Lands so returned, which Grants and Conveyances shall be good, valid, and effectual, to all Intents and Purposes whatsoever.

may be granted by the Governor and Council.

* This Reference seems to establish the Commission in toto, and not for the particular Purpose of absent Grantees, &c.

II. *Provided*, That it shall and may be lawful, for all Persons interested or intitled to such Lands as are comprized in said Office, to traverse the same, within Twelve Months from the Date of such Inquest. And if the said Office shall not be traversed within said Time, the Grant of said Lands, by Virtue of such Inquest, by the Governor or Commander in Chief, with Advice as aforesaid, shall be absolute according to the Form and Effect of such Grant.

Persons interested in such Lands may traverse within 12 Months, otherwise the Grant to be absolute.

III. *And Whereas* it may be doubtful, whether the Registry of Lots of Land (granted simply as Lots without any formal Conveyance under the Seal of the Province) within the said Peninsula of Halifax, or elsewhere in this Province, import a Conveyance in Fee Simple to the Persons in whose Names the same are registered: For the quieting such Persons in their Possessions, Be it Enacted by the Authority aforesaid, That all and every Person, having a Right to claim by Virtue of such Registry, (excepting the Persons absent or neglecting to improve as aforesaid, shall be intitled to a full and absolute Estate in Fee Simple, in the Lands so registered, any want of Form in the said Registry notwithstanding.

Registry of such Lands to be a Fee Simple.

C A P. V.

An ACT for regulating the Common belonging to the Township of Lunenburg.

HEREAS His Excellency the Governor has granted and set apart, a Tract of Land lying in the Peninsula of Lunenburg, to serve us a Common for the Inhabitants of said Town: And Whereas it is necessary, That some Regulations should be made by proper Persons, for the common Benefit of the said Inhabitants from Time to Time, as their Situation and Circumstances may require, Be it therefore Enacted by His Excellency the Governor, Council, and Assembly and by the Authority of the same it is hereby Enacted, That the Justices in their Quarter Sessions, to be next held in March for the said Town and Coun-

Preamble.

Grand Jury, at
March Sessions, to
make Regulations
for the Common,
for One Year, to
be approved by the
Justices.

ty, shall give it in Charge to the Grand Jury then and there summoned, to affix and settle such Regulations, as they may think most proper and convenient to be observed and followed by the Inhabitants of *Lunenburg*; to continue for One Year, from such Session; and such Regulations, as shall be approved of by the Justices of said Sessions, shall be and are hereby declared to be the stated Rules, to be kept, observed, and followed with Relation to the said Common, by the aforesaid Inhabitants, for and during the Space aforesaid.

The like to be done
Annually at March
Sessions.

II. *And be it further Enacted*, That the said Justices shall, in the like Manner at their Annual Sessions, thereafter to be held in March, proceed and give in Charge to the Grand Jury in Manner aforesaid, and settle and approve of such Rules and Regulations for the said Common, to serve for the Year then next ensuing, as to them shall appear most proper and convenient.

Justices to appoint
Penalties for not
obeying such Re-
gulations.

III: *And be it also further Enacted*, That the said Justices shall be, and are hereby impowered to settle, and appoint such Pains and Penalties, to be inflicted upon the Person or Persons, who shall neglect or refuse to obey the Rules and Regulations so to be settled at the said Annual Sessions of the Peace, as to them shall appear to be just and equitable.

Not to exceed 40s.

IV. *Provided*, That such Pains or Penalties to be inflicted, shall not exceed the Sum of Forty Shillings each.

C A P. VI.

An ACT for building a publick *Slaughter House* in the Town of *Halifax*, and for regulating the same.

Preamble.

WHEREAS the killing of Cattle, Swine, and Sheep, within the Town of Halifax, by the Butchers at their Houses and Shops, is become a public Nuisance, occasioned by the Dung and Garbage being thrown into the Streets; Be it therefore Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That there shall be erected and built a Slaughter House upon the Beach, set apart for that Purpose by his Excellency; which House, when built, shall be for the public Use of all People, who may have Cattle to kill for Sale at the public Market only; and His Excellency the Governor or Commander in Chief for the Time being, is hereby impowered to cause the said Slaughter House to be built, and of such Dimensions as to him shall appear to be of sufficient Extent, Usefulness, and Conveniency for the Purposes aforesaid.

A Slaughter House
to be built for the
use of the Persons
killing Cattle for
Sale at the Public
Market.

II. *And*

II. *And be it further Enacted,* That as soon as the said Slaughter House is finished, which shall be made public, no Cattle, Swine, or Sheep of any Kind, shall be killed within the Town and Suburbs of *Halifax* for public Sale, excepting at the said Slaughter House: And all Persons acting contrary hereunto, shall forfeit and pay a Sum not exceeding Twenty Shillings for every Beast so killed, to be levied by any One of His Majesty's Justices of the Peace, upon View of the same, or recovered by the Oath of One credible Witness, before any One of His Majesty's Justices of the Peace for the said Town, for the Use of the Poor.

No Cattle &c. to be killed, except at such Slaughter House, on Penalty of 20s. for each Beast.

For the use of the Poor.

III. *Provided,* That nothing herein contained shall debar any Person or Persons, who have private Slaughter Houses situated upon the Water on any Wharf in the Harbour, from using their said Slaughter Houses, if upon Return made by the Keeper of the Market House, it appears at the next Quarter Sessions to be inoffensive to the Public.

Not to extend to Private Slaughter Houses already built upon the Water.

IV. *And be it also further Enacted,* That the Keeper of the Market House shall have the Care of the said Slaughter House, and shall visit the same at least thrice a Week; and shall cause the Persons who make use thereof to keep it clean and sweet, and to deprive such Persons, who shall refuse so to do, of the Use thereof until they comply therein; and shall also be impowered to sue any Person or Persons, from whom the Building may have suffered Damage, who shall be obliged to make sufficient Repairs of such Damage to his Satisfaction.

Keeper of the Market House to have the Care of the Slaughter House.

At the GENERAL ASSEMBLY of the Province of Nova-Scotia, begun and holden at Halifax, on the First Day of July, Anno Domini 1761, and in the First Year of the Reign of Our Sovereign Lord GEORGE the Third, of Great-Britain, France, and Ireland, KING, Defender of the Faith, &c. being the First Session of the Third General Assembly convened in the said Province.

C A P. I.

An ACT for the better Observation and keeping of the Lord Day.

Eng. Stat. 29. Car.
2. c. 7.

No Tradesmen, &c.
to open his Shop or
sell any Goods, on
the Lord's Day.

Milk and fresh Fish
excepted.

No Labour to be
done on the Lord's
Day.

~~*****~~ *E* it Enacted by the Honourable the Commander in Chief, the Council, and Assembly, in order that all Persons may on the Lord's Day, apply themselves to Duties of Religion and Piety, both publickly and privately, no Tradesman, Warehouse Keeper, Shopkeeper, or other Person whatsoever shall, for the future, open his, her, or their Shop or Warehouse; or either by himself or herself, or by his or her Servant or Servants, Child or Children, sell, expose or offer to Sale, upon any Bulk, Stall, or Shed, or send or carry out, any Manner of Goods or Merchandize, on the Lord's Day or any Part thereof. *Provided nevertheless*, that this Act shall not extend to prohibit any Persons from selling or exposing to Sale, Milk and Fresh Fish, before the Hour of Nine of the Clock in the Morning, and after Five of the Clock in the Afternoon on the said Day,

II. *And be it further Enacted*, That no Person whatsoever for the future, shall do or exercise any Labour, Work or Business, of his or their ordinary Callings, or other wordly Labour, or suffer the same to be done, by his or their Servant or Servants, Child or Children; either by Land or by Water, (*Works of Necessity and Charity only excepted*) or use or suffer to be used any Sport, Game, Play or Pastime, on the Lord's Day or any Part thereof, upon Pain, that every Person or Persons so offending in any of the Particulars before.

beforementioned, upon Conviction thereof upon the Oath of One credible Witness, before any One of His Majesty's Justices of the Peace, of this Province, or upon view of any Justice of the Peace, for every such Offence shall forfeit, and pay the Sum of Ten Shillings.

Eng. Stat. 1. Cap. 1.
c. 2.

III. *And be it further Enacted*, That no Tavern Keeper, Retailer of Spirituous Liquors, Vintner, or other Person keeping a public House of Entertainment within this Province, shall for the future on any Pretence whatsoever, entertain or suffer any of the Inhabitants or Town Dwellers of *Halifax*, or any of the Towns respectively where such Tavern Keepers, Retailers of Spirituous Liquors, Vintners, or other Persons keeping public Houses of Entertainment, respectively dwell, or others not being Strangers or Lodgers in such Houses, or such as come thither for necessary Dieting and Victualling only, to abide or remain in their Dwelling Houses, Out Houses, or Yards, drinking or idly spending their Time on the *Lord's Day*; but shall keep their Doors shut during the Time of Divine Service, on Penalty of forfeiting and paying the Sum of Ten Shillings, for every Person or Persons respectively so found drinking or abiding in such public Houses or Dependencies thereof as aforesaid; and every such Person or Persons, who shall be found so drinking or abiding in any such public House or Dependencies thereof as aforesaid; shall respectively forfeit and pay the Sum of Five Shillings.

Eng. Stat. 29. Cap.
2. c. 7. Sec. 3.

Tavern Keepers,
&c. to forfeit 10s.
for every Person
found drinking in
their Houses on the
Lord's Day.

Persons drinking,
&c. therein forfeit
5s.

IV. *And be it further Enacted*, That the Church Wardens^a and the Constables, or any One or more of them, shall once in the Forenoon, and once in the Afternoon, in the Time of Divine Service, walk through the Town to observe and suppress all Disorders, and apprehend all Offenders whatsoever contrary to the true Intent and Meaning of this Act: And they are hereby authorized and empowered to enter into any public House of Entertainment, to search for any such Offenders, and in Case they are denied Entrance, they are hereby empowered to break open, or cause to be broke open, any of the Doors of the said House, and enter therein; and all Persons whatsoever are strictly required and commanded to be aiding and assisting to any Constables or other Officers in their Execution of this Act, on the Penalty of Ten Shillings Current Money for every Neglect.

^a Cap. 90.
Churchwardens,
&c. to walk
through the Town
in Time of Divine
Service, to suppress
Disorders.

V. *And be it further Enacted*, That if any Person or Persons whatsoever, being of the Age of Twelve Years or upwards, being able of Body, and not otherwise necessarily prevented by real Sickness, or other unavoidable Necessity, shall for the Space of Three Months together, absent himself or herself from the publick^b Worship on the *Lord's Day*, shall be subject to a Fine (*that is to say*) for every Head of a Family Ten Shillings, and for every Child or Servant Five Shillings, to be recovered, upon Complaint, before any One of His Majesty's Justices of the Peace, who is hereby empowered to cause the same to be levied.

Penalty for not at-
tending Divine Ser-
vice once in three
Months.

Fines to be to the Use of the Poor.

VI. *All Fines and Penalties* incurred by this Act are to be to the Use of the Poor of the Town where such Offence is committed; and the Justice and Justices before whom any Person or Persons shall be convicted of offending against this Act, are required to make a Record thereof, in a Book to be kept by him or them.

Prosecution in ten Days.

VII. *Provided*, That no Person shall be prosecuted for any Offence beforementioned, unless they be prosecuted for the same within Ten Days after the Offence committed.

Penalties to be levied by Warrant of Distress from any Justice.

VIII. *And be it further Enacted*, That every Justice of the Peace shall have full Power and Authority, to levy the Penalties herein before respectively mentioned, in Case the same shall not, upon Conviction, be paid by the Offender or Offenders, by Distress and Sale of the Offender or Offenders Goods and Chattels with Costs; and in Default of Distress, to commit such Offender or Offenders to the common Goal of the County, there to remain in close Confinement for a Time not exceeding Forty eight Hours, nor less than Twenty Four Hours.

in Default of Distress, the Offender to be committed.

IX. *And be it further Enacted*, That this Act shall be publicly read Four Times in every Year, *viz* At the opening of every *Court of General Sessions of the Peace*, immediately after the Grand Jury are sworn: And also twice every Year, *viz*. On every First Sunday of December, and on every First Sunday in June, in all public Places of Worship within this Province, immediately after divine Service.

Act to be read four Times a Year at the Sessions, and twice at Church.

C A P. II.

An ACT for the registering of Marriages, Births and Deaths.

Preamble.

OR preventing of great Uncertainty and Inconvenience, that may happen for Want of a Register of Marriages, Births and Deaths, Be it Enacted by the Honorable the Commander in Chief, Council and Assembly, That in every Township within this Province, where no Parish shall be established, the Town Clerks, who are hereby appointed Registers of Marriages, Births and Deaths, in their respective Townships, shall, and they are hereby empowered and required to take an Account of all Persons that shall be married, or that shall be born or shall die, within each Township respectively, and fairly to register in a Book their Names and Surnames, as also the Names and Surnames of their Parents, with the Time of their being married, or of their Birth and Death; and the Register shall demand and receive the Fee of One Shilling, and no more, for each and every Registry

Town Clerk, in every Township where no Parish is established, to Register Marriages, &c.

Registry by him so entered, to be paid by the Persons who shall be married, and by the Parents or other nearest of Kin to, or concerned with the Party born or dying. And if any shall refuse or neglect to give Notice to the said Register, of the Marriage by the Persons themselves, or of the Birth or Death of any Person that they are so related to or concerned for, or to pay for Registering as aforesaid, within the Space of Thirty Days next after such Marriage, Birth or Death; every Person so refusing or neglecting, and being (upon the Complaint of any Register) thereof convicted before One of His Majesty's Justices of the Peace within the same County, shall forfeit and pay unto such Register, the Sum of Five Shillings; to be levied by Distress and Sale of the Offender's Goods, by Warrant from such Justice, if Payment be not made within Four Days next after Conviction as aforesaid. And every such Register shall give forth from the Registry a fair Certificate under his Hand, of Persons married, born, or dying in the Township, to any who shall desire the same; and he shall receive One Shilling and no more, for every Certificate so given.

Penalty 5s. Persons not giving Notice of Marriages, &c. or refusing to pay the Clerk's Fee.

A certificate to be given by the Clerk, when required.

II. 22. Geo. 3. Ch. 3. Sect. 2. *And be it Enacted*, That the said Town Clerk of each Township respectively, shall apply to the several Ministers in such Township, for a list of all such Marriages, Births, or Deaths recorded by them, before the making this Act, and from Time to Time hereafter, and to enter the same in a Book kept for that purpose.

Town Clerk to apply to Ministers for a list of such Marriages, &c. recorded by them.

III. *And be it further Enacted*, That the Registry so kept, shall be sufficient Evidence in any Court of Record within this Province.

Registry to be Evidence.

C A P. III.

An ACT for preventing Damages by unseasonable burning, or Firing of the Woods.

HEREAS setting on Fire the Woods and Underbrush, in the dry Season of the Year, by spreading, has done much Damage in the burning Houses, Fences, Hay, &c. And Whereas in the present Situation of the new Settlements, it may be necessary that such Regulations should be made, as will be most convenient and useful for clearing the Lands with the least Risk, Be it therefore Enacted by the Honorable the Commander in Chief, Council, and Assembly, That the Justices in the several Counties within this Province, in their Quarter Sessions to be next held in March for the said Counties, shall give it in Charge to the Grand Juries, then and there summoned, to affix and settle such Regulations within their respective Counties, as they may judge most proper and convenient, to be observed and followed by the several Inhabitants within the said Counties, for preventing Damage by setting Fire to, and burning the Woods, Underbrush, or Marsh Lands

Preamble:

Grand Jury, at March Sessions, to make Regulations, with the Approbation of the Justices, for preventing burning the Woods, &c.

Lands at unseasonable Times, with as little Prejudice as possible to the clearing of Lands in the New Settlements. And such Rules and Regulations as shall be approved of by the Justices of the said Sessions, shall be, and are hereby declared to be the stated Rules to be kept, observed, and followed by the Inhabitants of the said several Counties, for and during the Space of Twelve Months thereafter.

to be in force for
Twelve Months.

II. *And be it further Enacted*, That the said Justices shall in like Manner at their Annual Sessions, thereafter to be held in March, proceed and give in Charge to the several Grand Juries in Manner aforesaid, and settle and approve of such Rules and Regulations for the Purposes aforesaid, to serve for the Year then next ensuing, as to them shall appear most proper and convenient.

The same to be
done Annually.

III. *And be it also Enacted*, That the said several Justices in their *Quarter Sessions* as aforesaid, shall be and are hereby empowered, to settle and appoint such Pains and Penalties to be inflicted upon the Person or Persons, who shall neglect or refuse to obey the Rules and Regulations so to be settled at the said *Annual Sessions of the Peace*, as to them shall appear to be just and equitable.

Penalties to be
settled by the Ju-
stices.

IV. *Provided*, That such pecuniary Penalties to be inflicted, shall not exceed the Sum of Five Pounds; and that the Prosecution for any Offence against this Act, be commenced and prosecuted within the Space of Three Months after the Offence committed.

Not to exceed £5.

Prosecution in three
Months.

C A P. IV.

An ACT to prevent the spreading of contagious Distempers.

*** *Be it Enacted by the Honorable the Commander in Chief, the*
 B *** *Council and Assembly*, That every Vessel coming into the Port
 *** of *Halifax*, having any Person on board infected with any
 *** Plague, Small Pox, Malignant Fever, or other contagious
 Distemper, shall anchor at least Two Miles below the Town of *Halifax*, towards the Sea, and on her anchoring shall hoist an Ensign with the Union downwards at the Main Top Mast Head; and the Master thereof shall not permit any of the Mariners or Passengers belonging to or coming in such Vessel, to land: And the said Master shall be obliged, within Twenty Four Hours after his Arrival, to give Notice thereof to the Governor, Lieutenant Governor, or Commander in Chief for the Time being, of the State, Condition, and Number of the Sick Persons on board his Vessel, and shall conform himself to such Orders and Directions as he shall receive from the Governor, Lieutenant Governor, or Commander in Chief, both for the performing
 Quaren-

Masters of Vessels
directed how to
conduct themselves
on their Arrival in
the Port of Halifax,
having Persons on
board infected with
any contagious
Distemper.

Quarantine, for the Airing and Cleansing the Passengers, Vessel, and Goods on board; and for removing the infected and Sick Persons out of the said Vessel.

II. *And be it further Enacted*, That before any such sick or infected Persons be put on Shore, the Master of such Ship or Vessel shall give Security for the Payment of the Charge of removing them on Shore, and also for the necessary Refreshments, Medicines, and Attendance, which shall be ordered and directed by the Governor, Lieutenant Governor, or Commander in Chief.

and to give Security for paying the Charges of removing them, &c.

III. *And be it further Enacted*, That any Master or Masters of any Vessel or Vessels, who shall not conform themselves to the Rules and Directions prescribed by this Act, shall be liable to pay a Fine not exceeding One Hundred Pounds, on due Conviction thereof, to be recovered by Bill, Plaint, or Information, in any of His Majesty's Courts of Record.

Penalty £ 100. for not conforming to this Act.

IV. *And be it further Enacted*, That for the preventing any infectious Distempers from being brought into, and spreading in any of the other Towns within this Province, any One or more Justices of the Peace, residing within or nearest to such Town within this Province, where any Vessel infected with the Small Pox or Infectious Distemper, shall arrive, shall forthwith take care to prevent and restrain all Persons belonging to or transported in such Ship or Vessel, from coming on Shore; or if any be before on Shore, to send them on board again; as also to restrain Persons from going on board such Ship or Vessel, and to that End may make out a Warrant directed to the Constable of any such Town, who are accordingly impowered and required to execute the same; and such Justice or Justices are forthwith to transmit the Intelligence thereof, to the Governor, Lieutenant Governor, or Commander in Chief, for their Direction and Order thereon.

Powers of Justices of the Peace at other Towns.

V. 16. Geo. 3. Ch. 2. *Be it Enacted, by the Governor, Council and Assembly*, That for the better preventing the spreading of Infection when it shall happen that any Person or Persons coming from abroad, or belonging to any Town or Place within this Province, visited, or that late before, have been visited with the Plague, Small Pox, pestilential or malignant Fever, or other contagious Sickness, the Infection whereof may probably be communicated to others, Two or more of the Justices of the Peace, together with the Overseers of the Poor, of such Town, are hereby impowered, upon full and sufficient Evidence and Proof being made to such Justices and Overseers of the Poor, and after taking the Testimony of One or more Physician, Surgeon or Apothecary, living and residing in, or near such Township or Place, to take care and make effectual Provision in the best Manner they can, for the Preservation of the Inhabitants, and of such Sick

When any Persons, come from any Place infected with Plague, Small Pox, &c.

on sufficient Evidence and Testimony of Physicians, &c.

Two or more Justices with Overseers of the Poor to take care and make effectual Provision for the preservation of the Inhabitants.

Sick or Infected Persons to remove themselves or be removed by Justices and Overseers of the Poor.

Charge occasioned by Persons belonging to any other Town who shall be Sick with Small Pox, &c. and who are unable to pay the same, to be paid by Overseers of the Poor of Town where they belong.

and when such Persons do not belong to any Town such Charge to be paid by the Treasurer of the Province.

Rules to be observed by Persons who shall inoculate themselves or Families.

Nothing in this Act to extend to Town of Halifax.

or Infected Person or Persons shall not remove himself, or themselves, or be removed by his or their Parents or Masters, to such Place as the Justices and Overseers of the Poor, shall think fit and proper, provided the same be within such Township or Place, it shall and may be lawful for the said Justices and Overseers of the Poor to remove and place such Sick or Infected Person or Persons to, and in a separate House or Houses as aforesaid, and by providing Nurses, Attendance and other Assistance, and Necessaries for them at the Charge of the Parties themselves, their Parents or Masters, if able, or otherwise at the Charge of the Town or Place whereto they belong. And in Case it shall happen, that any Person or Persons shall be visited with any such Small Pox, malignant Infection or Sickness, in any other Town or place than that whereto they belong, and thereby Occasion a Charge to such Town, the Overseers of the Poor shall lay the Account thereof before the Justices in the Court of *General or Special Sessions of the Peace*, held for the County or District, where such Town lies, whereto such Person or Persons belong, and the Justices having adjusted the Account of such Charge, and allowed so much thereof as they judge reasonable, shall order Payment thereof to be made by the Overseers of the Poor, when the Persons themselves, their Parents, or Masters, are unable to pay the same, and when it shall happen that such indigent Persons, are not Inhabitants or belonging to any Town or Place within the Province, and the Proper Charge thereof, in Case they need Relief, being adjusted as aforesaid, then the Charge of their Sickness shall be defrayed out of the public Treasury of the Province, by Warrant from the Governor, Lieutenant Governor or Commander in Chief on the Certificate of the said Justices.

V. *Provided*, That any Person or Persons desirous of being inoculated (for the Small Pox) themselves, or of having their Families inoculated, may proceed therein, provided, that the House or Place wherein they dwell or reside, during the Time of their being infected with the Small Pox, shall be at least One Hundred and Sixty Rods Distance from any other House or Dwelling, and that they take Care to prevent and restrain all Persons infected from going from thence further than Eighty Rods from such House, and also that such their Design of Inoculation be made known in the Township where they dwell, and a Flag hung out at their said House, to the end that all Persons may take Notice thereof, and avoid if they see cause going near such Houses or Places.

VI. *Provided also*, That nothing in this Act contained, shall be construed to extend to the Town of *Halifax*.

C. A. P. V.

An ACT to enable Creditors to receive their just Debts, out of the Effects of their absent or absconding Debtors.

***** *Et it Enacted by the Honorable the Commander in Chief, the*
 * * * * * *Council, and Assembly, That it shall and may be lawful for*
 * B * * * * * *any Person intituled to any Action for any Debts, Dues or*
 * * * * * *Demands whatsoever, against any Person absconding or*
absent out of this Province, to cause the Goods and Estate of such ab-
scinding or absent Person to be attached, in whose Hands or Posses-
sion soever the same are, or may be found : And the Attaching of any
Part thereof shall secure and make the Whole, that is in such Person's
Hands, liable in the Law to respond the Judgment to be recovered
upon such Procefs, if so much there be, and no further, and shall be
subjected to be taken in Execution for Satisfaction thereof, or so far as
the Value thereof will extend, and the Person in whose Hands they are
shall expose them accordingly.

Goods and Estates
of absconding
Debtors may be at-
tached, and

subject to Execu-
tion.

II. *And be it further Enacted, That where no Goods or Effects of such*
absent or absconding Person in the Hands of his Attorney, Factor, Agent,
or Trustee, shall be exposed to view, or can be come at so as to be at-
tached, it shall and may be lawful to and for any Person intituled to any
such Action as aforesaid, to file a Declaration against such absent or ab-
scinding Person, in the Clerk's Office of the Supreme Court; or of the
Inferior Court of Common Pleas in the same County where such Factor,
Agent, or Trustee lives, therein particularly setting forth his Debt and
Damage, how and for what Cause it arises ; and to cause the Attorney,
Factor, Agent or Trustee, of such absent or absconding Person, to be ser-
ved with a Summons out of the Office, annexed to the said Declaration,
Fourteen Days before the Sitting of the Court, for his Appearance at
such Court ; which being duly served, and Return thereof made under
the Officer's Hand, shall be sufficient in the Law to bring forward a
Trial, without other or further Summons, unless the Principal be an
Inhabitant, or hath for sometime had his Residence within this Pro-
vince, in which Case a like Summons with an attested Copy of the De-
claration annexed, shall also be left at his Dwelling House, Lodging
or Place of his last and usual Abode, Fourteen Days before the Sitting
of the Court ; and such Attorney, Factor, Agent, or Trustee, upon
his Desire, shall be admitted to defend the Suit on behalf of his Prin-
cipal throughout the Course of the Law, and an Imparlance shall be
granted of Course at two Terms successively, that he may have an
Opportunity to notify his Principal thereof ; and at the third Term,
without special Matter alledged and allowed in Bar, Abatement, or
further Continuance, the Cause shall peremptorily come to Trial;

Agent, &c. of an
absconding Debtor
to be summoned to
Court.

Procefs and Trial
thereupon.

Goods, &c. in
Agent's Hands sub-
ject to Execution.

and if Judgment be rendered for the Plaintiff, all the Goods, Effects or Credits of such absent or absconding Person, in the Hands of such Attorney, Factor, Agent or Trustee, which were in his Hands at the Time of his being served with the Summons and Declaration aforesaid, to the Value of such Judgment, (if so much there be) shall be liable and subjected to the Execution granted upon such Judgment, for or towards satisfying the same; and from the Time of serving the Summons as aforesaid, shall be liable and secured in the Law, in his Hands to answer the same, and may not be otherwise disposed of or converted.

Plaintiff to be Non-
suit, where no Ef-
fects in supposed
Agent's Hands,

III. *Provided nevertheless, and be it Enacted*, That if upon Summons being served as aforesaid, the supposed Attorney, Factor, Agent, or Trustee, shall come into Court at the First Term, and declare that he had not in his Hands, at the Time of the Service of such Summons, any Goods, Effects, or Credits whatsoever of the absent or absconding Person, and shall submit to an Examination upon Oath respecting the same; and if, upon such Examination, it shall appear to the Satisfaction of the Justices of the Court, that he had not any Goods, Effects, or Credits whatsoever of the absent or absconding Person, in his Hands at the Time of his being summoned as aforesaid, then in every such Case, the Plaintiff shall become Nonsuit, and shall pay to him who was summoned as Attorney, Factor, Agent, or Trustee, his reasonable Costs, to be taxed in common Form by the Justices of the Court.

and to pay Costs.

Agents, &c. not
appearing, liable to
pay Costs.

IV. *And be it further Enacted*, That if any Attorney, Factor, Agent, or Trustee, being served with Summons and Declaration as aforesaid, shall not appear at the first Term, and then either acknowledge himself to have had in his Hands some Goods, Effects, or Credits of the absent or absconding Person at the Time of the Service aforesaid; and thereupon pray that he may be admitted to defend the Action, or otherwise submit himself to an Examination upon Oath as aforesaid, he shall be liable to pay to the Plaintiff all such Costs as shall arise upon his Suit, to be taxed by the Justices of the Court before which the Action shall be brought.

Execution to be
levied on the
Agent's proper
Goods, &c. if he
transfer, &c. the
Effects of his Prin-
cipal.

V. *And be it further Enacted*, That in Case any Attorney, Factor, Agent, or Trustee, from and after the Time of his being served with Summons and Declaration as aforesaid against his Principal, (being an absent or absconding Person) shall transfer, remit, dispose of, or convert any of the Goods, Effects, or Credits of such absent or absconding Person, in his Hands at the Time of such Service, so that there shall not be sufficient to satisfy the Judgment, (the Debt being afterwards ascertained by Judgment of Court) or that shall not discover, expose, and subject the Goods, Effects, or Credits, of such absent or absconding Person in his Hands, to be taken in Execution for or towards the Satisfaction of the Judgment, so far as what were in his Hands at the Time of said Service, will extend, shall be liable to satisfy the same of his own proper Goods and Estate, and as of his own

Debt

Debt; and a Writ of *Scire facias* may be taken out of the same Court and served upon him as the Law directs, to appear and shew Cause (if any he have) to the contrary, where upon Default of Appearance, or Refusal to disclose upon his Oath, (which Oath the Justices of such Court are empowered to administer) what Goods, Effects or Credits of the absent or absconding Persons, are in his Hands, and to what Value; then Judgment shall be entered up against him of his own proper Goods and Estate, and Execution be awarded accordingly.

VI. *Provided nevertheless, and be it Enacted*, That if it shall appear that the Attorney, Factor, Agent, or Trustee, so summoned as aforesaid, and having in his Hands, at the Time of such Summons, any Goods, Effects, or Credits of the absent or absconding Person, hath not any ways remitted, disposed of, or any ways converted the same after the Summons being served on him as aforesaid; but that he hath discovered, exposed, and subjected them to be taken in Execution, to satisfy the Judgment recovered against the absent or absconding Person as aforesaid; then the Party who commenced the Suit shall pay such Attorney, Factor, Agent, or Trustee, his reasonable Costs, to be taxed in common Form by the Justices of the Court from which the *Scire facias* issued as aforesaid.

VII. *And be it further Enacted*, That the Goods, Effects, or Credits, of any absent or absconding Person, so taken as aforesaid by Process and Judgment of Law, out of the Hands of his Attorney, Factor, Agent, or Trustee, by any of Creditors, shall fully acquit and for ever discharge such Attorney, Factor, Agent, or Trustee, his Executors, or Administrators, of, from, and against all Actions and Suits, Damages, Payments, and Demands whatsoever, to be asked, commenced, had, claimed, or brought by his Principal, his Executors, or Administrators, of and for the same; and if any Attorney, Factor, Agent, or Trustee, shall be molested, troubled, or sued by his Principal for any Thing by him done in pursuance of this Act, he may plead the general Issue, and give this Act in Evidence.

VIII. *Provided nevertheless, and be it further Enacted*, That any absent or absconding Person, against whom Judgment shall be recovered as aforesaid, shall be intitled to a Rehearing of such Cause at any Time within Three Years after such Judgment; and the Plaintiff, in such Action, before any Execution shall issue on such Judgment, shall give sufficient Security to the Satisfaction of the Court, for the Repayment of all such Monies as may be levied by Virtue of such Execution, in case the said Judgment should be reversed on such Rehearing as aforesaid.

IX. *Provided always*, That so much of this Act only as relates to the commencing of the Action, and attaching the Goods, shall be of Force, till his Majesty's further Pleasure be known therein.

Agent to discover, upon Oath, the Goods, &c. of his Principal, on Failure Judgment to be entered against him of his own proper Estate, &c.

Agent to be allowed his Costs, upon discovering the Effects, &c. of his Principal, and subjecting them to satisfy the Judgment.

Agent to be acquitted and discharged from any Action of his Principal.

Principal intitled to a Rehearing within three Years.

Part of this Act only to take place, till His Majesty's Pleasure be known.
Confirmed by His Majesty in Council.

C A P. VI.

An ACT for the Appointment of Sworn Gaugers, ascertaining their Duty, granting them an Allowance, and Establishing their Fees.

Two Gaugers to be appointed at Halifax.

Be it Enacted by the Honourable the Commander in Chief, the Council, and Assembly, That it shall and may be lawful for His Excellency the Governor, Lieutenant Governor, or Commander in Chief for the Time being, to appoint two Gaugers for the Port of Halifax, who shall be sworn to the faithful Discharge of their Duty, and who are hereby authorized to gauge all Rum or other distilled Spirituous Liquors which shall be imported into, or distilled within the same, and shall perform all such gauging by the Instrument commonly called and known by the Name of Gunter's Callipers, and no other Instrument whatsoever; and who shall have an Allowance not exceeding Twenty Five Pounds per Annum each, to be paid out of the Duties arising on Rum, or other distilled Spirituous Liquors imported into, or distilled within this Province; and it shall and may be lawful for the said Gaugers to demand and receive the following Fees.

Salary £25. per An. each.

Their Fees.

For gauging a Puncheon or Pipe	-	-	Six Pence.
A Houghhead or Tierce,	-	-	Four Pence.
A Barrel	-	-	Two Pence.

and other Casks in Proportion, and no more, to be paid by the Seller.

The same Fees at the Out Ports, and 6d. per Mile for Travel.

II. Be it further Enacted, That for every other Port or Town within this Province where no Distilling House is erected, and where it may be necessary for a Gauger to be appointed, the said Gauger shall be intitled to receive the same Fees, as is herein before established for the Port of Halifax, with a further Allowance of Six Pence a Mile for his Travel.

Penalty £5. on any Gauger neglecting his Duty.

III. And be it further Enacted, That if any Gauger, to be appointed as aforesaid, shall neglect to attend upon due Notice given for the gauging any Rum, or other distilled Spirituous Liquors imported into, or distilled within the Province, shall forfeit and pay for every such Neglect the Sum of Five Pounds, with Costs, upon Conviction thereof by the Oath of One Credible Witness before any Two of His Majesty's Justices of the Peace, to be recovered by Warrant of Distress from under the Hand and Seal of said Justices, one Moiety whereof to be paid to the Person who shall inform and sue for the same, the other Moiety to the Overseers of the Poor, for the Uses of the Poor, of the Town where such Offence shall be committed.

IV. Provided

IV. *Provided always, and it is hereby further Enacted,* That no Fees shall be demanded by the Gaugers as aforesaid, for gauging any Stock of Rum, or other distilled Spirituous Liquors made up at the Distilling Houses within this Province.

No Fees to be taken at the Still Houses.

C A P. VII.

An Act for prohibiting the Exportation of *Raw Hides, Sheep or Calf Skins*, out of this Province, other than for *Great Britain*; and to prevent the Cutting, Splitting or Flawing of Hides.

HEREAS the Exportation of Raw Hides, Sheep and Calf Skins out of this Province, except to Great Britain, has been found to be a great Prejudice to the same; Be it therefore Enacted by the Honorable the Commander in Chief, Council, and Assembly, That from and after the Tenth Day of August, 1761, no Person or Persons shall load on board any Ship or Vessel for Exportation, any Raw Hides of any Ox, Bull, Steer or Cow, or any Sheep or Calf Skin, before the Master of such Ship or Vessel shall have given Bond to the proper Officer at *Halifax*, or at any other Port within the Province to such Person as shall be appointed for that Purpose, in the Value of One Hundred Pounds Currency, with sufficient Security that the same shall be by the said Ship or Vessel carried to *Great Britain* and to no other Place, and be there landed and put on Shore (the Danger of the Seas only excepted) and shall within Twelve Months, return a Certificate that the same have been so landed: And if any Person shall presume to lade on board any Ship or Vessel any Raw Hides or Skins as aforesaid, before Bond be given as aforesaid, he shall forfeit the same, and the Master of the Vessel shall forfeit the Value of such Raw Hides as shall be found on board such Vessel, and if any Ship or Vessel shall carry out of this Province such Hides or Skins as aforesaid, before Bond be given as aforesaid, or any Seizure made, every Master of such Ship or Vessel shall forfeit and pay double the Value of the same, and the Shipper treble the Value of the Hides or Skins so shipped.

Preamble.

No Raw Hides, &c. to be loaded on board any Vessel, until Bond be given that the same shall be landed in Great Britain.

On Penalty of being forfeited.

Penalty on Masters of Vessels carrying the same out of the Province.

II. *Provided,* That Information, Suit, or Prosecution on the same, be had or made within the Term or Space of Twelve Months next after the Offence committed.

Prosecution to be within Twelve Months.

III. *Provided also,* That when the Current Price of Raw Hides, such as of Ox, Bull, Steer, or Cow, shall be Three Pence per Pound, or under, the same may be exported to any of His Majesty's Plantations.

10. Geo. 3. Ch. 9. Exception when under Three pence per Pound.

IV. *And*

Penalty 20s. for
Gashing &c. the
Hide of any Ox,
&c.

IV. *And be it also Enacted*, That if any Butcher or other Person whatsoever shall by himself or any other Person employed by or under him or them, gash, cut, split, or flaw the Hide of any Ox, Bull, Steer, Cow, Sheep, or Calf, in fleaing thereof or otherwise, whereby the same shall be impaired or damaged, and offer the same to Sale, such Butcher or other Person so offending shall forfeit and pay the Sum of Twenty Shillings, for each and every such Offence committed by them, or any other Person employed by or under him or them.

How Penalties are
to be recovered,

V. *And be it further Enacted*, That the several Fines and Forfeitures incurred by this Act, shall be recovered on the Oath of One credible Witness in Manner following, (*that is to say*) That for exporting Raw Hides, Calf or Sheep Skins, contrary to the Tenor of this Act, by Bill, Plaint, or Information, in any of His Majesty's Courts of Record in this Province, One Half thereof to be paid to the Treasurer of the Province for the Use of His Majesty's Government in said Province, the other Half to him or them that shall inform and sue for the same; and the Penalty for cutting, splitting, or flawing Hides, to be recovered before any One of His Majesty's Justices of the Peace, to be levied by Warrant of Distress and Sale of the Offender's Goods and Chattels, under the Hand and Seal of the Justice before whom the Conviction of the said Offence is made, and for Want of Distress to suffer Twenty Days Imprisonment; and that One Half of said Penalty be paid to the Informer or Person suing for the same, and the other Half to the Poor of the Place where the Offence shall be committed.

and applied.

C A P. VIII.

An ACT for the Repairing and Mending *Highways, Roads, Bridges and Streets*, and for appointing *Surveyors of Highways*, within the several Townships in this Province.

E. it Enacted by the Honourable the Commander in Chief, the Council and Assembly, That the Grand Juries at the *General Quarter Sessions of the Peace*, held for the several Counties, next after the First of January, annually nominate Eight fit Persons out of whom said Court of *Quarter Sessions*, shall appoint two or more to be Surveyors of Highways for each Town in the respective Counties, who shall be sworn to the faithful Discharge of their Office for the Year ensuing, before the said Sessions or before any One of the Justices of the Peace within or nearest to the said Town, for which such Surveyors shall be chosen; and any Person being so nominated and chosen, who shall refuse to accept of the said Office, or shall neglect to be sworn as aforesaid,

within

Two Surveyors of
Highways for each
Town to be chosen
at the Quarter Ses-
sions next after the
1st January Annu-
ally.

within Fourteen Days next after such Nomination; or having accepted shall neglect his Duty, shall forfeit for every Refusal or Neglect, Five Pounds, to be recovered by Bill, Plaint, or Information, in any of His Majesty's Courts of Record; and the Forfeiture shall be applied for the Repairing of the Highways.

Persons refusing to serve &c. forfeit £5.

II. *And be it further Enacted.* That every Person within each Township keeping any Cart, Team, or Truck, shall send on every Day appointed by the said Surveyor of Highways, One Cart or Team, or Truck, with Two Oxen or Two Horses, and One able Man to drive the same, for Four Days in every Year, to work on the Highways, Roads, Streets, or Bridges, allowing Eight Hours to each Day's Work; and such Person not attending or neglecting to perform the said Duty, shall forfeit for every Day's Neglect, Ten Shillings; and that every other Householder or Labourer, not being an hired Servant for a Year, shall, on every Day appointed as aforesaid, either by himself or other sufficient Person to be hired by him, provided with such necessary Implements as shall be directed by the said Surveyor, work for the Space of Six Days in every Year, on the said Highways, Roads, Streets, or Bridges, within the Township where they respectively dwell; and such Persons not attending or neglecting to perform the said Duty, shall forfeit Three Shillings for every Day's Neglect.

Each Person's Proportion of Labour to the Highways, &c.

Penalty for Neglect of labour.

* And all such Forfeitures as aforesaid, shall be sued for by Surveyors of Highways in like Manner as Debts of the like Value are sued for and recovered before one or more Justices of the Peace.

* 13. Geo. 3. Ch. 3.

III. *5. Geo. 3. Ch. 2. Sect. 5. Be it therefore Enacted,* That the Constables of the several Townships in this Province shall make out a List of all such Persons who are Owners of Teams, Carts or Trucks, as also of every other Householder and Labourer within their respective Townships, and deliver the same to the Surveyors of Highways; and at such Time as the said Surveyors shall judge proper, between the Days prescribed by the afore recited Act, the said Constables shall summon so many of the Persons contained in said Lists, as the Surveyors shall direct from Time to Time.

Constables to return to the Surveyors, a List of the Owners of Teams, &c. and of Persons liable to labour.

IV. *And be it further Enacted,* That the said Surveyors of Highways shall, and are hereby empowered, in the fittest and most seasonable Time, between the First Day of April, and the First Day of November, Yearly (Seed Time and Harvest only excepted) to summon the Inhabitants contained in their Lists respectively, giving them at least Six Days Notice of the Time and Place where he proposes to employ them; and shall there oversee and order the Persons so summoned, to labour in making, mending, or repairing the Highways, Roads, Streets, and Bridges, in the most useful manner, during the number of Days appointed by this Act for each Person to Labour; and the

Labour on the Highways to be done between the 1st of April and the 1st of November, Yearly.

Surveyors excused from Labour.

Surveyor of Highways shall himself be excused from any other Service on the Highways, than the summoning ordering, and directing thereof.

Owners of Carts, &c. to send two Men instead of a Cart, if judged necessary by the Surveyor.

V. *And Whereas the Labour of Men may be more useful, than the employing Teams, Carts, or Trucks, in some Towns, Be it therefore Enacted,* That when any Surveyor of Highways shall Judge the Labour of Men more useful and necessary than that of Carts, Teams, or Trucks, the Persons who by this Act are to find Carts, Teams, or Trucks, shall be obliged under the like Penalty, to send two labouring Men instead thereof, furnished with necessary Implements as aforesaid.

Surveyors to account to the Quarter Sessions.

VI. *And be it further Enacted,* That the Surveyors of Highways shall, at the Expiration of their Office Annually, account at the General Quarter Sessions of the Peace, for all the Fines received by them for the Use of the Highways, and shall pay the Overplus (if any in their Hands) to their Successors in the said Office, for the aforesaid Uses, under the like Penalty as for any other Neglect of Office.

New Highways or Common Roads, to be laid out by a Jury, sworn at the General Sessions for that Purpose.

VII. *5. Geo. 3. Ch. 2. Be it Enacted by the Governor, Council, and Assembly,* That where a new Highway or Common Road from Town to Town, or Place to Place in any County in this Province, shall be wanting, and where old Ways with more Conveniency may be turned or altered; upon Application made to the Justices in *General Sessions* within the same County, the Court is hereby impowered to appoint two or three sufficient Freeholders of the next Towns, who shall have most Occasion of the said Way, to enquire into the Necessity and Conveniency thereof, and to make their Report thereon, and being judged to be of common Necessity or Conveniency, the Justices shall order a Warrant to the Sheriff or his Deputy to summon a Jury out of the next Towns, to meet at some convenient Day and Place therein mentioned, to view and lay out of such Highways or Roads, who shall have an Oath administered to them by a Justice of the Peace, to lay out such Way according to their best Skill and Judgment, with most Conveniency to the Public, and least Prejudice or Damage to any particular Person; which having done, the Sheriff or his Deputy is to make a Return thereof on the Day appointed by the Court, as well under his own, as the Hands of the Jurors, by whose Oath the same is laid out, to the End the same may be allowed of and recorded, and after known for a Public Highway; and all Public Highways hereafter to be laid out as aforesaid, shall not be less than One Hundred Feet wide.

Highways not to be less than 100 Feet wide.

30 Days Notice to be given, that any Person aggrieved, may complain.

VIII. *Provided always, and be it Enacted,* That before such Road or Highway is allowed and recorded for a Public Highway, the Court shall cause Notice to be given thereof for the Space of Thirty Days, to the Intent that if any Person shall think himself aggrieved thereby, he may make his Complaint thereof, and Inquiry be made into the Cause of such Complaint.

IX. *And*

IX. *And be it further Enacted,* That the Surveyors of the Highways of each Town respectively, be and are hereby empowered to lay out particular and private Ways, either open or pent, with Swinging Gates for such Town only, as shall be thought necessary by the Justices of the Peace in their *General Sessions*, upon Application made to them by the Persons concerned: *Provided*, that no Damage be done to any particular Person in his Land or Property, without due Recompence to be made by the Town, as the Surveyors of the Highways and the Party interested may agree, or as shall be ordered by the Justices in *General Sessions*, upon Inquiry into the same by a Jury to be summoned for that Purpose.

Private Roads to be laid out by the Surveyors of Highways.

Not to endamage any particular Person without due Recompence.

X. *And be it also further Enacted,* That if any Person or Persons shall alter any Public Road or Highway, or any private Road that shall be laid out as aforesaid, or that shall make any Encroachment upon the same, not being first authorized so to do by due Course of Law; such Persons shall, upon Complaint and due Proof thereof made before the Court of *General Sessions* of the Peace for the County, where such Highway lay before it was so altered or encroached upon, forfeit Five Pounds, to be levied by Distress and Sale of the Offender's Goods and Chattels, by Warrant of the Court who shall hear the said Complaint; and all Forfeitures so to be levied shall be paid to the Surveyors of the Highway of the Township, from whence the Fine was levied, to be applied for repairing Highways, Roads, Streets and Bridges, within the same.

Any Person altering or encroaching on any Road,

forfeits £5.

to be applied to the repairing Highways, &c.

XI. *And be it also Enacted,* That all Persons able of Body between the Age of Sixteen Years and Sixty shall be obliged to labour at the said Roads, Highways, Streets and Bridges, or procure or pay a proper Person for the same.

Persons between the Age of Sixteen and Sixty obliged to labour on the Roads, or pay a proper Person.

XII. 13. Geo. 3. Ch. 3. *Be it Enacted, by the Governor, Council and Assembly,* That all such Forfeitures as aforesaid, shall be sued for by the Surveyors of Highways in like manner as Debts of the like Value are sued for, and recovered before one or more Justices, any Thing in the said afore-recited Act to the contrary notwithstanding.

All forfeitures for neglect to attend for repairing and mending Highways &c. to be recovered as Debts are before one or more Justices.

XIII. Sect. 2. *Be it Enacted,* That upon Application to two of his Majesty's Justices of the Peace, the said Justices shall, and may in their Discretion lessen the Number of Days Labour to be performed by such Men as cannot without Detriment to their Families attend the same.

Two Justices may lessen number of days labour by poor Persons.

XIV. *And be it also Enacted,* That all Persons keeping Carts, Teams, and Trucks, who by being Sixty Years Old or upwards, are exempted from labouring themselves on the said Highways or Roads, shall nevertheless send their Carts, Teams or Trucks, to assist in making or repairing the same.

Persons who keep Carts, &c. tho' exempted from labouring by age to send their Carts, &c.

XV. *And*

Penalty for encumbering or stopping Roads or Streets.

XV. *And be it also further Enacted*, That any one of his Majesty's Justices of the Peace, shall and may on his own View, or on the Oath of one credible Witness, impose a Fine, not exceeding Twenty Shillings, on any Person who shall encumber or stop up the way in any of the Roads or Streets in this Province, by laying Timber, Wood, Carts, Trucks or any other thing thereon, to be recovered by Warrant of Distress and Sale of the Offenders Goods and Chattels, or in Case such Offender shall not be known or found, the same shall be recovered by Sale of so much of the Timber or Wood, and the Carts, Trucks or other thing encumbering or stopping the Way in such Road or Street as aforesaid, and be paid to the Overseers of the Poor for the Use of the Poor of the Town or Place where, or nearest the Place where the Offence shall be committed, rendering the overplus, if any be, to the Owner when found. And if the said Nuisance shall continue, the same shall be deemed a new Offence, and shall be prosecuted, and liable to the Penalty aforesaid.

In cases where highways are laid out and that the parties and the surveyors of Highways cannot agree relating to the damage suffered, the same shall be determin'd by a jury out of next townes.

XVI. *19. Geo. 3. Ch. 3. Be it Enacted by the Lieutenant Governor Council and Assembly*, That in all Cases, where, either private or public Highways shall be laid out and any Dispute shall arise between the Parties concerned, and the Surveyors of the Highways, for the Town where the same shall be laid out or proposed to be laid out, relating to the Damage suffered, or likely to be suffered by such parties, the same shall be determined by a Jury to be ordered by the Justices out of the next Towns, who shall be sworn impartially to determine the same.

Surveyor of Highways not to alter roads or streets already laid out nor make any repairs but by the advice and consent of at least three Justices.

XVII. *Be it Enacted*, That the Surveyors of Highways shall not alter any Roads or Streets already laid out, nor make any Repairs to the Streets or Highways in any Town or Township, but by the Advice and Consent of at least three Justices of the Peace.

At the GENERAL ASSEMBLY of the Province of *Nova Scotia*, begun and holden at *Halifax*, on the *First Day of July*, Anno Domini 1761, in the First Year of the Reign of Our Sovereign Lord GEORGE the Third, of *Great Britain, France and Ireland*, KING, Defender of the Faith, &c. and there continued by several Prorogations until the Seventeenth Day of *March*, 1762, in the Second Year of His said Majesty's Reign; being the Second Session of the Third *General Assembly* convened in the said Province.

C A P. I.

An ACT for the regulating Innholders, Tavern-keepers, and Retailers of Spirituous Liquors.

E it Enacted by the Lieutenant Governor, Council, and Assembly, That from and after the Publication hereof no Retailer, Innholder, Tavern or Alehouse Keeper, who shall sell upon Trust or Credit, any Wine, Strong Beer, Ale, Brandy, Rum, or other Spirituous Liquors, mixt or unmixt, to any Soldier, Sailor, Servant, or Day Labourer, or other Person whatsoever, to the Amount of any Sum exceeding the Sum of Five Shillings, shall have any Remedy to recover the same, either at Law or in Equity, against any of the Persons aforesaid, their Executors or Administrators.

II. *And be it further Enacted*, That in Case any Soldier, Sailor, Servant, Apprentice, bound Servant, or Negro Slave, or other Person whatsoever, shall leave any Pawn or Pledge, as a Security for the Payment of any Sum exceeding Five Shillings, contracted in such Manner, such Soldier, Sailor, Servant, Apprentice, bound Servant, or Negro Slave, or other Person whatsoever, or the Masters or Mistresses of such Servant, Apprentice, bound Servant, or Negro Slave,

No Debts to be recovered by Retailers, &c. for Wines, &c. sold to any Soldier, &c. for any Sum above Five Shillings.

Pledges for Payment of any Sum above 5s. to be restored by Order of a Justice of the Peace.

may complain to any Justice of the Peace where such Retailer, Innholder, Tavern or Alehouse Keeper, or any other Persons whatsoever, receiving such Pawns or Pledges, usually resides, that such Pawn or Pledge is detained from him or her by such Retailer, Innholder, Tavern or Alehouse Keeper, or any other Person whatsoever, and having made Proof thereof upon Oath, or otherwise to the Satisfaction of said Justice, such Justice of the Peace is required, by Warrant under his Hand and Seal, to compel such Retailer, Innholder, Tavern or Alehouse Keeper, or other Person whatsoever, by Distress and Sale of his Goods, to restore the aforesaid Pawn or Pledge to the Party complaining, or to make him or her Satisfaction for the Loss or Abuse thereof; and shall further be subject to a Fine not exceeding Twenty Shillings, for the Use of the Poor, and Costs of Prosecution.

Retailers &c. not to suffer Apprentices, &c. to remain drinking in their Houses, &c. on Penalty of 20s.

III. *And be it further Enacted,* That no Retailer or Person whatsoever, shall harbour or suffer any Apprentice, bound Servant, or Negro Slave, to sit drinking in his or her House, nor sell or give him or them, nor suffer to be sold or given him or them, any of the Liquors aforesaid, without special Order or Allowance of their respective Masters or Mistresses, on Pain of forfeiting the Sum of Twenty Shillings for every such Offence, together with the Charges of Prosecution; to be recovered, upon Conviction on the Oath of one credible Witness, before any One of His Majesty's Justices of the Peace within the Town or Precinct where the Offence shall be committed, or such other Proof as shall be to the Satisfaction of such Justice, and to be levied by Warrant of Distress and Sale of the Offender's Goods and Chattels, under the Hand and Seal of the said Justice, and for Want of sufficient Distress, such Justice shall and may commit such Offender to His Majesty's Gaol, there to remain for the Space of One Month, or till he shall have paid and satisfied the same. - And such Sum so levied shall, by the said Justice be paid into the Hands of the Overseers of the Poor of the Town or Precinct where the Offence shall be committed, to be by them applied to the Use of the Poor of such Town or Precinct.

Not to extend to Travellers &c.

IV. *Provided always,* That nothing herein contained shall extend to debar any Retailer, Innholder, Tavern or Alehouse Keeper, from furnishing any Traveller, or Boarders in his Family, with necessary Refreshments on Credit.

C A P. II.

An ACT for preventing fraudulent Dealings in the Trade with the Indians.

***** *HEREAS* many Mischiefs may arise by Frauds and other
 * Injuries, in the Trade with the Indians of this Province: And
 * *W* * Whereas the said Indians are unacquainted with the Laws of
 * this Province, and in what Manner they are to proceed in or-
 ***** der to do themselves Right; Be it Enacted by the Lieutenant Governor,
 Council, and Assembly, That the Governor, Lieutenant Governor, or
 Commander in Chief, upon Complaint of any Indians within this Pro-
 vince, made to him or either of them, that they have been wronged
 or cheated of their Furs or any other Merchandize, or in any other
 their Trade and Dealing with other His Majesty's Subjects; that the
 Governor, Lieutenant Governor, or Commander in Chief is hereby
 desired to direct His Majesty's Attorney General to prosecute the same,
 either before His Majesty's Justices, or in any of His Majesty's Courts
 of Record in a Summary Way, as the Laws do direct, and such Pro-
 secution shall be deemed Legal, and Judgment and Execution shall
 issue accordingly.

Preamble.

The Attorney General to prosecute in behalf of any Indians, for Injuries done them.

II. This Act to continue and be in Force until further Regulations relating to the Trade with the Indians shall be made.

Act to continue till further Regulations be made.

C A P. III.

An ACT to prevent the Firing of Squibs, Rockets, Serpents or other Fireworks.

***** *E* it Enacted, by the Lieutenant Governor, Council, and As-
 * ssembly, That it shall not be lawfull for any Persons to
 * *B* * make, or cause to be made, or sell, or expose to Sale, any
 * Squibs, Rockets, Serpents, or other Fireworks, or any
 ***** Cases, Moulds, or other Implements for the making the same, or for
 any Persons to permit any Squibs or other Fireworks to be thrown or
 fired from their Houses, Lodgings, or Habitations, or Place thereto
 belonging or adjoining, into any public Street, Road, Passage or Wa-
 ter, or for any Person to throw, or fire, or be assisting in throwing or
 firing of any Squibs, or other Fireworks into any publick Street,
 House, Shop, Highway, Road, Passage or Water; and that every
 such Offence shall be judged a Common Nuisance.

Making, &c. any Squibs, &c. to be judged a Common Nuisance.

II. *Be it further Enacted*, That if any Persons shall make, or cause to be made, or shall give, sell, or utter any Squibs, Rockets, Serpents

Persons making the same, &c.

or

or other Fireworks, or any Moulds or Instruments for the making of any such Squibs, Rockets or Serpents, or other Fireworks, every Person so offending, and being thereof convicted before One of His Majesty's Justices of the Peace of the Place where such Offence shall be committed, by Confession of the Party, or the Oath of One credible Witness, shall forfeit the Sum of Forty Shillings; and that if any Persons shall throw or fire, or be aiding and assisting in throwing or firing, of any Squibs, Rockets, Serpents, or other Fireworks, into any publick Street, House, Shop, Highway, Passage, or Water, every Person so offending, and being thereof convicted as aforesaid, shall forfeit the Sum of Forty Shillings; and if any Persons shall permit any Squibs, or other Fireworks, to be thrown or fired from their Houses, Shops, Lodgings, or Habitations, or in any Place thereto belonging, or adjoining to any public Street, Road or Passage, or any other Place; every such Person so offending and being thereof convicted as aforesaid, shall forfeit the Sum of Forty Shillings. The said several Forfeitures to be levied by Distress and Sale of the Goods of every such Offender, by Warrant of the Justice before whom the Conviction shall be made, the one Half of the Forfeiture to be to the Use of the Poor where the Offence shall be committed, and the other Half to the Use of them, who shall prosecute and cause such Offenders to be convicted; and if said Persons so offending shall not, immediately upon their being convicted, pay to the Justice before whom such Conviction shall be made, the said Forfeiture for the Uses aforesaid, such Justice is hereby required and empowered, by Warrant to commit such Person to the House of Correction, or Goal for any Time not exceeding Fourteen Days, unless such Offender shall sooner pay such Forfeiture to the said Justice.

forfeit 40s.

One Half to the
Poor, the other
Half to the Infor-
mer

Exception as to the
Governor, &c.

III. *Provided*, That this Act shall not extend to debar the Governor, Lieutenant Governor, or Commander in Chief of this Province, or the Commanding Officers of His Majesty's Troops, or any Persons employed under them or either of them, from making and firing off any such Fireworks as aforesaid.

Bonfires not to be
made within 300
Yards of any Bil-
ding, &c.

IV. *Be it also Enacted*, That no Person whatsoever shall presume to make or cause to be made any Bonfires within Three Hundred Yards of any Buildings, Stacks of Hay or Corn, under the Penalty of Forty Shillings, to be recovered and applied in the Manner as mentioned in this Act.

C A P. IV.

An ACT for appointing Firewards, ascertaining their Duty, and for punishing Thefts and Disorders at the Time or Fire.

*** E it Enacted by the Lieutenant Governor, Council, and Assembly,
 * B * That it shall and may be lawful to and for the Justices of
 * * * the Peace for the Town and County of *Halifax*, from
 *** Time to Time annually in their Sessions, to appoint such
 Number of prudent Persons of known Fidelity, not exceeding Ten,
 in the several Parts of the said Town of *Halifax*, and the Suburbs
 thereof, as they may think fit, who shall be sworn faithfully to dis-
 charge their Trust, and shall be denominated and called Firewards,
 and have a proper Badge assigned to distinguish them in their Office,
viz. A Staff of Six Feet in Length, coloured Red, and headed with
 a bright Brass Spear of six Inches long.

Justices in Sessions
 to appoint Ten Per-
 sons to serve as Fire-
 wards for *Halifax*.

II. *And be it further Enacted*, That at the Times of the breaking
 forth of Fire in the said Town or Suburbs thereof, and during the
 Continuance thereof, the said Firewards shall and are hereby authori-
 zed and impowered, jointly or separately to command and require As-
 sistance for the extinguishing and putting out the Fire, and for remo-
 ving of Household Stuff, Furniture, Goods and Merchandizes, out
 of any Dwelling Houses, Store Houses, or other Buildings actually
 on Fire, or in Danger thereof, and to appoint Guards to secure and
 take Care of the same: As also to require Assistance for the pulling
 down of any Houses, or any other Services relating thereto, to stop
 and prevent the further spreading of the Fire; and to suppress all Tu-
 mults and Disorders. And the Officers appointed from Time to
 Time as aforesaid, are required, upon the Notice of Fire breaking
 forth (taking their Badge with them) immediately to repair to the
 Place, and vigorously exert their Authority for the requiring Assistance,
 and using their utmost Endeavours to extinguish, and prevent the
 spreading of the Fire, and to preserve and secure the Estate and Effects
 of the Inhabitants; and due Obedience is required to be yielded unto
 them, and each of them accordingly for that Service: And for all
 Disobedience, Neglect or Refusal in any Person, Information thereof
 shall, within Two Days next thereafter, be given to any One of His
 Majesty's Justices of the Peace for the said County and Town, and
 upon Conviction thereof, before any two of the Justices aforesaid, each
 and every Person so convicted shall forfeit and pay the Sum of Forty
 Shillings, to be levied and distributed by the Direction of such Justi-
 ces, among the Poor most distressed by the Fire; and in Case the Of-
 fenders are unable to satisfy the Fine, then to suffer Ten Days Im-
 prisonment.

Duty and Authority
 of the Firewards.

Any Person dis-
 obeying their Or-
 ders at the Time of
 Fires, forfeit 40s.

Two Magistrates or Firewards, may order any House to be pulled down, to stop the Fire;

Owners of such Houses to have Satisfaction, by an Assessment of the Inhabitants.

III. *And be it further Enacted*, That when any Fire shall break out in the said Town of *Halifax*, or the Suburbs thereof, Two or more of the Magistrates or Firewards of the said Town shall and may, and are hereby impowered to give Directions for pulling down any such House or Houses as shall by them be judged meet to be pulled down, for the stopping and preventing the further spreading of the Fire; and if it shall so happen, that the pulling down any such House or Houses by the Direction aforesaid, shall be the Occasion of stopping the said Fire, or that the said Fire shall stop before it come to the same, that then all and every Owner of such House or Houses shall receive reasonable Satisfaction, and be paid for the same by the rest of the Inhabitants of the said Town and Suburbs, (to be accounted from the River called Fresh Water River; to Mr. *Mauger's* Distilling House inclusive) whose Houses shall not be burnt, in the Manner hereinafter prescribed, (*That is to say*) the Owner or Owners of such House or Houses so pulled down and intitled as aforesaid, shall as soon as may be, make application to the First Justice in the Commission of the Peace for the said Town and County, or in his Absence to the next named in the said Commission, who is hereby impowered to call a *Special Sessions* of the Justices, who shall meet at the Time appointed; and the Court being satisfied, by such Proof as shall be brought, of the Justice of the Claims made, they shall then issue an Order for a Valuation of the Damages so sustained, to be made by Two or more indifferent Persons, who shall make a Return of their Proceedings, upon Oath, into the said Court by the Day affixed, whereupon the Court shall appoint Two or more Assessors, who shall Tax the Houses of the said Inhabitants that have not been burnt, at such Rate or Rates as shall by them be thought just, in Proportion to the Value of the Houses that are to be taxed, for paying the said Damages and the Charges of Valuation, Taxation, and Collection, together with the other Fees of the Court, to be settled before the making such Assessment; and the said Assessors are to report their Proceedings to the Court also upon Oath. And the said Court shall thereupon issue an Order for collecting the Monies so taxed, and in Case of Non Payment the same to be levied by Warrant of Distress to be obtained from any One of the said Justices, upon Application to him by the Collector or Collectors of the said Tax: And as soon as the Assessments are so collected, the Court shall order Payment to be made to the Party claiming, according to the Report made and approved of the said Damages; as also the Payment of such other Charges as aforesaid.

No Satisfaction to be made for the House where the Fire began.

IV. *Provided*, That if the House where the Fire did begin and break out, shall be adjudged fit to be pulled down to hinder the Increase and further spreading of the same, that then the Owner of such House shall receive no Manner of Satisfaction therefor, any Thing herein contained to the contrary notwithstanding.

V. *And*

V. *And be it likewise Enacted*, That if any evil minded wicked Persons, shall take Advantage of such Calamity, to rob, plunder, purloin, imbezzle, or convey away, or conceal any Goods, Merchandizes; or Effects of the distressed Inhabitants, whose Houses are on Fire or endangered thereby, and put upon removing their Goods; and shall not restore and give Notice to the Owner or Owners, if known, or bring them into such Public Place as shall be appointed and assigned by the Governor and Council, within the Space of Two Days next after Proclamation made for that Purpose, the Person or Persons so offending, and being thereof convicted, shall be deemed Felons, and suffer Death as in Cases of Felony, without Benefit of Clergy.

Stealing at the Time of Fires, Felony without Clergy.

VI. 22. Geo. 3. Ch. 2 *Be it Enacted*, by the Lieutenant Governor, Council and Assembly, That each Fireward appointed agreeable to the Directions of the above recited Act, shall be forthwith provided with one Ladder at least, Twenty four Feet in Length, and one Ladder Sixteen Feet Long with Hooks, one Fire Hook, two Axes, Twelve Leathern Bucketts, twelve large Bags and one Saw, which shall be by the said Fireward deposited in the most convenient Place in such Ward, and at which the Inhabitants of such Ward are to assemble, when the Fire Bell rings, and from thence to proceed under the Direction of the said Fireward, with such of the said Implements as may be required, to the Place of Danger.

Each Fireward to be provided with Ladders, Firehooks, Axes, Bucketts, Bags, and a Saw, to be deposited by him in some convenient Place where Inhabitants are to assemble.

VII. Sect. 3. *And be it also Enacted*, That the Ward or District of which each Fireward shall have Charge, shall be numbered, and that the Ladders, Firehooks, Bags, Axes, Saws, and Bucketts shall be marked with the Number of the Ward to which they belong, and within Twenty Four Hours after the extinguishing any Fire, the said Ladders, Firehooks, Bags, Axes, Saws and Bucketts, shall be delivered at such Place of deposit, and if after said Twenty Four Hours any of said Ladders, Firehooks, Axes, Bucketts, Bags or Saws, shall be found in the Possession of any Person, He or she shall forfeit and pay a Fine of Forty Shillings, to be levied by Warrant of Distress and Sale of the Offender's Goods, before any one of his Majesty's Justices of the Peace, the said Fine to be paid into the hands of the Fireward, and to be applied for the Purpose of repairing the said Ladders, Firehooks, Axes, Bucketts, Bags and Saws.

Ward or District of each Fireward to be numbered, and Ladders, &c. to be marked.

If after 24 Hours after any Fire any Ladders, &c. are found in the Possession of any Person to forfeit 40s.

VIII. Sect. 4. *And be it also further Enacted*, That the Amount of the Cost of the Ladders, Firehooks, Axes, Bucketts, Bags and Saws, so purchased, shall be levied on the Inhabitants of the Town and Suburbs of Halifax, by Assessment in Manner as is provided for levying the Monies voted for the Support of the Poor, and recovered accordingly.

Cost of the Ladders &c. to be levied on the Inhabitants by Assessment.

IX. Sect. 5. *And be it Enacted*, That the Constables of each Ward, shall attend with their Staves, on the Fireward of such Ward at times of Fire,

Constables to attend the firewards, at the Time of Fire.

to receive his Directions and to assist in Keeping good Order and prevent Thefts.

C. A. P. V.

An ACT for the better regulating the *Militia*,
on actual Service in Time of War.

Preamble.

HEREAS in Times of imminent Danger, either by Invasion or sudden Attack made or threatened to be made by His Majesty's Enemies on any of His Subjects within this Province, insomuch that His Excellency the Governor, Lieutenant Governor, or Commander in Chief for the Time being, shall, by Virtue of the Power granted him by His Majesty's Commission, judge it expedient to order any Part of the Militia of this Province to march from one County or Part of the Province to another, on necessary Service; or to do Duty by mounting Guard: In such Case it is requisite that due Subordination should be observed, for preventing Mutiny, Desertion and Contempt; Be it Enacted by the Lieutenant Governor, Council, and Assembly, That if any Officer, Non Commissioned Officer, or Soldier, of the Militia, under Arms for real Service, on a March, or on Guard, or that shall be ordered for any of the above mentioned Duties, shall disobey Orders, or neglect doing his Duty, or shall shew any contemptuous Behaviour towards his superior Officer; if an Officer, he shall on Conviction thereof before a General Court Martial, to be constituted and appointed as herein after directed, be cashiered by the Sentence of such Court Martial; if a Non-Commissioned Officer or Soldier, he shall be confined by the Commanding Officer of such Party or Guard: And it shall be lawful for the Commanding Officer of the Regiment, or of any Party, or Command, not under the Degree of a Captain, to order a Regimental Court Martial to be forthwith held for the Trial of such Offender, the said Court Martial to consist of One Captain and Two Subalterns at least, but where they can be had, of One Captain and Four Subalterns who may give judgment by laying a Fine on such Offender in any Sum not exceeding Forty Shillings, which Fine so ordered by the Court Martial, if he Neglect or refuse to pay, the said Offender shall be Corporally punished, by riding a Wooden Horse any Time not exceeding Half an Hour, or be committed to the House of Correction to be kept to hard Labour there for any Time not exceeding Ten Days.

Punishment for Disobedience of Orders, or Neglect of Duty, on Conviction before a General Court Martial,

or Regimental Court Martial.

Sentence to be approved by the Commanding Officer, before it be executed.

II. *Provided nevertheless*, That no Sentence of a Regimental Court Martial shall be put into Execution until approved of by the Commanding Officer of the Regiment, or of the Detachment where the Crime

Crime may have been committed. And no Officer being the Accuser, shall fit as a Member.

III. *And be it further Enacted,* That if any Officer, Non Commissioned Officer, or Soldier, of the Militia, shall in the Field, upon a March, or in Quarters on actual Service, desert the Troop, Company or Command to which he belongs, or shall disobey Orders; if a Commissioned Officer, he shall be put under Arrest by the Commanding Officer, if a Non Commissioned Officer, or Soldier, he shall be sent to the next County or other Goal as soon as convenient, and it shall and may be lawfull for His Excellency the Governor, Lieutenant Governor, or Commander in Chief of the Province, to order a General Court Martial, by a Warrant under his Hand and Seal, for the Trial of such Offender as speedily as the Service will admit; which Court Martial shall not consist of a less Number than Thirteen Commissioned Officers of the Militia; and the President of such Court Martial shall not be under the Degree of a Field Officer, and there shall be as many Captains as conveniently can be had, the eldest Subalterns to make up the Number: And that such Court Martial shall have Power to administer an Oath to any Witness, in order to the Examination or Trial of the above Offences that shall come before them.

Process for Desertion, &c.

IV. *And be it further Enacted,* That such General Court Martial shall have Power to punish with Death, or otherwise by Fine or Imprisonment, the Fine not exceeding Twenty Pounds, or Imprisonment not more than six Months.

General Court Martial may punish by Death, &c.

V. *Provided always,* That in all Trials by General Courts Martial, every Officer, before any Proceeding be had, shall take the following Oath, and the Judge Advocate is hereby authorized to administer the same.

Members to take the following.

YOU shall well and truly try and determine according to your Evidence in the Matter now before you, between or Sovereign Lord the King's Majesty and the Prisoner to be tried.

Oath.

VI. And no Sentence of Death shall be given against any Offender, by any such General Court Martial, unless Twelve Officers present shall concur therein; and His Excellency the Governor, Lieutenant Governor, or Commander in Chief, shall have Power to appoint any one of his Majesty's Justices of the Peace for said Province, or other fit Person, to act as Judge Advocate at any such General Court Martial.

No Sentence of Death to be given unless Twelve Members concur.

VII. *And be it also Enacted,* That no Sentence of such General Court Martial shall be put in Execution before the same be approved by his Excellency the Governor, Lieutenant Governor or Commander in Chief for the Time being.

Sentence to be approved by the Governor &c.

VIII. *Provided always and be it Enacted,* That when any Part of the Militia shall be draughted to march from one Part of the Province or Town to another on real Service, all such Draughts or Detachments shall be made by Ballot from each Company, in exact Proportion ac-

When the Militia is ordered to march, Detachments to be made from each Company by Ballot.

ording to their Numbers then fit for Duty, which shall be on the Oath of the Captain, or Commanding Officer, to the best of his Knowledge, if required; and each and every Person so draughted shall go in his own proper Person or find a good Man in his Room, and for his Neglect or Disobedience herein, he shall be confined by the Commanding Officer, and shall pay a Fine of Ten Pounds, or remain in Goal for Three Months, and another Man shall be draughted as aforesaid to march in his Place, who shall have Half of the above Fine.

Penalty for refusing to march.

Militia to be paid when ordered to march.

IX. *And be it further Enacted*, That when any Part of the Militia shall be ordered to march from one Part of the Province or Town to another not in the same County to which they belong, on real Service, there shall be allowed and paid to the Commissioned, Non Commissioned Officers, Drummers, and Private Soldiers, for so long as they shall remain on such Service, at and after the Rates following, (*That is to say*) to the Commissioned Officers at and after the same Rate as Officers of the like Rank in His Majesty's Troops; to the Serjeants after the Rate of Two Shillings, Corporals One Shilling and Four Pence, Drummers One Shilling and Four Pence, and Private Soldiers One Shilling *per Diem* each, together with the like Allowance of Rations of Provisions of all Kinds as are distributed and allowed to the Non Commissioned Officers and Soldiers in His Majesty's Regular Forces.

Militia doing actual Duty on real service in any Town or County to be paid as is directed by Act 2d Geo. 3. cap. 7. Sect. 9.

X. 17. *Geo. 3. Ch. 3. Be it therefore Enacted, by the Lieutenant Governor, Council, and Assembly*, That there shall be paid to all Commissioned, Non-Commissioned Officers, Drummers and Private Men, who shall hereafter do actual Duty on real Service, within any Town or County in this Province, for so long as they shall remain and continue on said Service the same Rate of pay, as is allowed to be paid by said Act to the Said Officers, and others doing duty on real Service, not in the same County, to which they belong.

When any Township, in the Interior parts of the Province, shall find it necessary to provide armed Boats for their Protection, the Inhabitants are impowered to meet, on notice given by the Town-Clerk, to consult and agree upon the Measures to be taken for their Defence: and the Majority may vote such a Sum, to be raised by Assessment on the

XI. 21. *Geo. 3. Ch. 1. BE it therefore Enacted, by the Lieutenant-Governor, Council and Assembly*, That whenever any Township, situated in the interior Parts of the Province, in the *Bay of Fundy and Basin of Mines*, shall find it necessary to provide and furnish themselves with armed Boats for their Protection, the Inhabitants of such Township or Townships shall and may, and they are hereby impowered to Meet, on Notice to be given by the Town-Clerk, by the Direction of the Officer commanding the Militia in such Township, of the Time and Place of Meeting, in order to consult and agree upon the Measures to be taken for their Defence against the Attacks of an Enemy by Water: And the Majority of said Town-meeting, accordingly, shall and may Vote such a Sum, to be raised by Assessment upon the Inhabitants, as they shall think necessary for the Purpose of Building and Equipping one or more armed Boats, which Sum shall be levied as other Assessments

ments are levied in the Province; the said Boats to be under the Conduct and Direction of the Commanding-Officer of the Militia in each Township, where the same shall be provided.

XII. *Be it Enacted*, That whenever the Commanding-Officer of any Township shall find it necessary to order the Boats, provided as aforesaid, to proceed in repelling the Enemy, or, to the Assistance of the neighbouring Townships, the Militia of such Town shall, on the Orders of such Commanding-Officer, proceed in such Boats accordingly.

XIII. *17. Geo. 3. Ch. 3. Provided*, That nothing in this act contained, shall take Effect, or be carried into Execution at any Time but on Occasion of actual Invasion, or sudden Attak from an Enemy, or imminent Danger thereof in such Town or County, and that such Militia shall be called on Duty as aforesaid by the commanding Officer, with the Advice and Consent, of at least Two of the Field Officers or Captains residing in said Town or County, and that the Governor, Lieutenant Governor or Commander in Chief of the Province shall approve thereof.

XIV. All Fines and Forfeitures to be incurred by this Act, and not particularly appropriated, shall be applied to such Militaty Uses as shall be thought necessary by the Governor, Lieutenant Governor, or Commander in Chief of this Province for the Time being.

Inhabitants, as they shall think necessary for building and equipping said armed Boats.

Whenever it shall be necessary that the Boats, so provided, should be employed to repel the Enemy, the Militia shall be obliged to proceed in them.

Proviso. Nothing in this Act to take effect but on occasion of actual Invasion or danger thereof in such Town or County. Militia to be called on Duty by Commanding Officer, with advice and consent of 2 field Officers or Captains and approved by the Governor, &c.

Application of Fines.

C A P. VI.

An Act for regulating the Exportation of Fish, and the Assize of Barrels, Staves, Hoops, Boards, and all other Kind of Lumber; and for appointing Officers to survey the same.

Be it Enacted by the Lieutenant Governor, Council, and Assembly, That from and after the End of this present Session of the *General Assembly*, all pickled Fish for Exportation shall be put in none but Barrels of Thirty one Gallons and a Half at least, and that the Fish be all of one Kind, well saved, sweet, free from Rust, and close packt, the Barrels tight, and full of sweet and strong Pickle.

Pickled Fish for Exportation to be put into Barrels of 31 Gallons and a half at least, The Fish to be all of one kind, &c.

That Herrings be free from Oil.

Quality of Herring.

That merchantable Codfish have the Qualities that make them so in Newfoundland.

of Codfish.

That

Size of Hogthead Staves,

That all Hogthead Staves be six Inches broad, three-Quarters of an Inch thick at the thin Edge, and forty Inches long.

of Barrel Staves,

That Barrel Staves be four Inches broad, and half an Inch thick at the thin Edge, and thirty Inches long.

of Barrel Staves for the Irish Market,

That Barrel Staves for the Irish Market be thirty Inches long, five Inches broad, clear of Sap, and three Quarters of an Inch thick at the thin Edge.

of Hogthead Hoops,

That Hogthead Hoops be fifteen Feet long, substantial and well shaved, and three Quarters of an Inch broad at the small End.

of Barrel Hoops,

That Barrel Hoops be nine Feet long, and Half an Inch broad at the small End.

of Boards,

That Boards shall be full one Inch thick.

of Shingles,

That Shingles be eighteen Inches long at least, four Inches broad, and half an Inch thick at the thick End.

of Clapboards,

That Clapboards be five Inches broad, half an Inch thick at the Back, and four Feet four Inches long.

Measure of Cord Wood.

That Cord Wood be full four Feet long each Stick, accounting half the Carf, the Pile to be solid, four Feet high, or an Allowance for Wants, of eight Feet long, and each Cord sound hard Wood.

Officers to be appointed.

II. *And be it further Enacted,* That all Barrels used for Fish within this Province, shall be made of sound well seasoned Timber and free of Sap, and that fit Persons be appointed from Time to Time in all Places needful, to view and gauge all such Barrels; and such as shall be found tight and of the Assize before mentioned, shall be marked with the Gauger's Mark, who shall have for his Pains Eight Pence per Ton; and every Cooper shall make his Barrels of the Assize aforesaid, and shall set his distinct Brand Mark on all Barrels so made by him, on Penalty of Forty Shillings for each Offence.

Coopers to make Barrels of lawful Size, on Penalty of 40s.

Persons offering to Sale deficient Barrels, forfeit the same, and 10s.

III. *And be it also Enacted,* And whosoever shall put to Sale any Barrels new made up from old Stuff, being deficient either in Workmanship or Timber, upon Proof thereof made by one sufficient Witness, before any one of His Majesty's Justices of the Peace, he shall forfeit such Barrels, and be fined and pay the Sum of Ten Shillings for every Barrel that shall be so found defective, or shall suffer Ten Days Imprisonment for every such defective Barrel. *Provided* the said Imprisonment do not in the whole exceed the Term of Three Months.

Gaugers not to mark defective Casks,

IV. *And be it further Enacted,* That every Gauger of Casks or Barrels appointed as aforesaid, shall take Care that such Cask or Barrels

by

by him viewed and marked as aforesaid, be agreeable to the Directions of this Act; and that he mark no Cask or Barrels whatsoever defective in any of the above Particulars, on Penalty of Ten Shillings for every Cask so by him marked that shall be found defective in any of the aforesaid Respects.

on Penalty of 10s for each Cask.

V. *And be it Enacted, for preventing of Fraud and Deceit in the packing of pickled Fish to be put to Sale,* That in every Town within this Province where such pickled Fish are packed for Sale, the Surveyor or Surveyors of Fish of such Town, or of the Town where they are put to Sale or shipped, shall see that it be well and orderly performed, and that the said Fish be packed all of one kind and that all Cask or Barrels so packed be full, and in all other Respects answerable to the Regulations herein specified in that behalf, setting his Brand or Mark on all Cask or Barrels so by him examined and surveyed; and he shall receive of the Owner or Seller of such Fish, for surveying and marking, Two Pence per Barrel, and Four Pence per Mile for his Travel; and if any such pickled Fish be put to Sale or shipped off without the Surveyor's Brand or Mark, they shall be forfeited, or the Value thereof, by the Selier or Shipper of the same.

Surveyors of pickled Fish not to mark any but such as are agreeable to this Act.

Their Fees.

Pickled Fish not marked to be forfeited if offered to Sale.

VI. *6. Geo. 3. Ch. 2. Be it Enacted by the Lieutenant Governor, Council, and Assembly,* That from and after the First Day of January, which will be in the Year of our Lord One Thousand Seven Hundred and Sixty Seven, all and every Person or Persons, packing Mackarel or any other Kind of pickled Fish within this Province, for Sale or Exportation, shall brand each Cask and Barrel by him or them so packed, on the Head of such Cask or Barrel, with the initial Letter or Letters of his or their Christian Name, and his or their Surname at Length, before he or they shall ship or expose the same to Sale, and every Person or Persons, who shall presume to ship for Exportation or expose to Sale any Mackarel or other Kind of pickled Fish, before the same be branded as aforesaid, shall, on due Conviction thereof by the Oath of One credible Witness, before any one of His Majesty's Justices of the Peace, forfeit and pay the Sum of Ten Shillings for each and every Cask or Barrel so exported or exposed to Sale; one Moiety thereof to the Informer, and the other Moiety to, and for the Use of the Poor of the Township, Town or Place, wherein such Offence shall be committed; the same to be levied by Distress and Sale of the Offender's Goods and Chattels, together with the Charges of such Distress and Sale, rendering the Overplus (if any be) to the Owner or Owners thereof.

Persons packing Pickled Fish for Sale or Exportation, to brand each Cask with the initial Letters of their Names &c.

on Penalty of 10s for each Cask.

One Half to the Informer, the other Half to the Poor.

VII. *And be it likewise Enacted,* That all Sorts of green or pickled Fish that shall be put up for Exportation to a Foreign Market, shall be searched, surveyed, and approved by the sworn Surveyor, who shall take strict Care that the same be in all Respects agreeable to the Regu-

Surveyors to examine strictly all Pickled Fish.

Masters of Vessels,
&c. receiving
Pickled Fish on
board, not marked,
to forfeit double
the Value.

Any Person shifting
Fish after the same
has been marked by
the Surveyor, to
suffer Imprison-
ment, for the first
Offence, six Months;
for the second Of-
fence, nine Months,
and for the third
Offence, Twelve
Months, and pay
double Damages.

Penalty £ 10 for
Counterfeiting the
Surveyor's Mark.

Callers of dry Cod
Fish,
their Duty,
and Fees.

If any such Fish be
put to Sale or Ship-
ped for Exportation,
without the Callers
Certificate, the same
to be forfeited of
the Value.

Surveyors of Lum-
ber, their Duty,

gulations herein before specified, and shall and may open the Head of any one Barrel the Buyer shall chuse for that Purpose, and such as shall be found good and Merchantable the Surveyor shall mark with such Brand Mark, as shall be assigned to him by the said Court, and such other Cut Mark as may denote the Kind of Fish and Time when packed. And if any Master of any Ship or Vessel, or any Officers or Mariners belonging thereto, shall receive such pickled Fish, not marked and branded as aforesaid, on board any of their Ships or Vessels, he or they who shall offend therein, shall forfeit double the Value of all such Fish; and he or they who shall own such Fish shall forfeit the same, or the Value thereof. And if any Cooper or other Person shall shift any Fish, either on board or on Shore, after the same hath been so marked and branded by the Surveyor, and ship and export the same, the Surveyor not having allowed thereof, and marked the Casks or Barrels a new, whereinto such Fish shall be shifted; all Persons acting, ordering, or assisting therein, upon Conviction thereof before any one of His Majesty's Justices of the Peace, by the Oath of one credible Witness, for the first Offence shall suffer six Months Imprisonment, for the second nine Months Imprisonment, and for the third twelve Months Imprisonment, without Bail or Mainprize; and shall likewise pay double Damages to the Person wronged thereby. And if any Person or Persons shall presume to counterfeit the Brand Mark of any Surveyor or Gauger, or Certificate of any Culler, upon due Proof or Conviction, he or they shall incur, forfeit and pay the Sum of Ten Pounds, and suffer one Month's Imprisonment.

VIII. *And be it further Enacted,* That the Culler of dry Cod Fish thereto appointed as aforesaid, shall cull all such dry Cod Fish that shall be sold or exported, and shall have One Penny per Quintal for every Quintal of Fish by him so culled, and Four Pence per Mile for his Travel, to be paid by the Owner or Seller; and such Culler shall give a Certificate under his Hand specifying the Quantity of Fish so by him culled, and the Name of the Owner, Seller, or Shipper thereof, and of the Time and Place where culled, and if any dry Cod Fish shall be put to Sale, or shipped for Exportation, without having been so culled by the Culler, or without such Certificate thereof as before directed, the same shall be forfeited, or the Value thereof, by the Seller or Shipper of the same.

IX. *And be it also Enacted,* That all Boards, Plank, Timber and Slit Work, that shall be imported or brought for Sale to any Town within this Province, or exported from thence to any Foreign Market, before their Delivery on Sale, shall be viewed, surveyed and also measured, by one of the Surveyors thereto appointed, (where he shall have any Doubt of the Measure) having Consideration for drying and shrinking; also shall mark anew all such to the just Contents, making Allowan-

lowance for Rots, Splits and Wains, the Seller to pay the Officer Four Pence per Thousand Feet for viewing only, and Six Pence per Thousand Feet more for measuring and marking; and so in Proportion for a lesser Quantity than a Thousand Feet, and four Pence per Mile for his Travel as aforesaid: And no Boards, Plank, Timber, or Slit Work, shall be delivered upon Sale, or shipped for Exportation beyond Sea, before they have been viewed and surveyed by the Surveyor, and by him found answerable to the Description in this Act mentioned; and also measured (if Occasion be) and marked anew by one of the Officers thereto appointed; on Pain of being forfeited, of the Value thereof, by the Seller or Shipper thereof.

and Fees.

Boards &c. delivered or Shipped for Exportation, before they are marked by the Surveyor, to be forfeited or the Value.

X. *And be it Enacted*, That all Shingles and Clapboards exposed to Sale by Quantities in Bundles, that do not hold out the Number they are marked for, unless it shall appear that some have been drawn or shaken out of the Bundle, after packing, shall be forfeited; the Charge of searching and telling to be paid thereout. That every Bundle of Shingles and Clapboards that, according to the Judgment of the Surveyor, will hold out Eighteen Inches long, Four Inches broad, and half an Inch thick, agreeable to the Dimensions by this Act prescribed for Shingles, and if Clapboards, Five Inches broad, half an Inch thick at the back, and Four Feet Four Inches long, being the Dimensions by this Act prescribed for Clapboards; shall be accounted merchantable, all that are otherwise to be culled out and burnt, 'till what be left of said Bundles will bear the same Proportions before prescribed, according to the Judgment of the said Surveyor, who shall have for his Service, if Shingles, Two Pence per Thousand; if Clapboards, Two Pence per Thousand surveying, and One Penny more per Thousand telling; to be paid by the Owner or Seller, where no Forfeiture is found for want of Tale to satisfy such Charge, and for every Thousand he culls and binds up again, Six Pence per Thousand, and proportionably for a lesser Quantity, to be paid by the Owner or Seller of the said Shingles or Clapboards, returning the Remainder to the Owner, if any be, after the Charges are paid.

Shingles and Clapboards deficient in Number to be forfeited,

if deficient in Quality, to be burnt.

XI. *And be it also Enacted*, That if any Boards, Plank, Timber, or Slit Work, or any Shingles or Clapboards shall be exposed for Sale, or shipped for Exportation, without such Survey as above directed, had before the Delivery thereof; the whole of such Boards, Plank, Timber, Slit Work, Shingles or Clapboards, or the Value thereof, shall be forfeited by the Seller or Shipper.

All boards, &c. exposed to Sale or Shipped for Exportation, without Survey, to be forfeited, or the Value, by the Seller or Shipper.

XII. *And be it further Enacted*, That all Hoghead Staves, Barrel Staves, Hoghead Hoops, and Barrel Hoops, that shall be imported or brought for Sale to any Town within this Province, or exported from thence to any foreign Market, before their Delivery on Sale shall be viewed and surveyed by one of the Surveyors thereto appointed, who shall take strict Care that the same be severally conformable to the

Hoghead Staves, Hoghead Hoops, &c. deficient in Quality to be burnt.

Dire-

Directions of this Act; and that all Staves and Hoops, that according to the Judgment of the said Surveyor, shall be agreeable to the Directions of this Act, and none other, shall be accounted merchantable; and all that shall be found otherwise to be culled out and burnt; till what be left will bear the several Proportions by this Act prescribed, according to the Judgment of the said Surveyor, who shall have for his Service, if Staves, Six Pence per Thousand, if Hoops, Three Pence per Thousand, to be paid by the Seller.

Staves and Hoops delivered upon Sale, or Shipped for Exportation, not surveyed, to be forfeited or the Value, by the Seller or Shipper.

XIII. *And be it also Enacted,* That all Hoops exposed to Sale by Quantities in Bundles that do not hold out the Number that they are so exposed to sale for, unless it appears that some are drawn or shaken out of the Bundle after packing, shall be forfeited; the Charge of surveying Three Pence per Thousand, and Three Pence per Thousand telling, and so in Proportion for a lesser Quantity, being paid thereout. And if any Staves or Hoops shall be delivered upon Sale or shipped for Exportation to any Foreign Market, before they have been surveyed by the Surveyor, and by him found to answer the Descriptions in this Act mentioned, the same shall be forfeited, or the Value thereof, by the Seller or Shipper thereof.

Cord Wood sold, before it be surveyed, to be forfeited, or the Value, by the Seller.

XIV. *And be it further Enacted,* That all Cord Wood exposed to sale, shall on the Sale, and before the Delivery thereof, be surveyed by the Officer for that Purpose appointed, who shall measure the same; and take Care that each Cord do answer the Qualifications by this Act required; and he shall receive of the Seller for each Survey and Examination, Two Pence per Cord and no more; and if any Cord Wood shall be sold and delivered without such Survey, the same shall be forfeited, or the Value thereof, by the Seller.

Surveyors may on Refusal of Payment, detain as much of any Commodity as will pay his Fees, if under 20s. if above, to be levied by Warrant of Distress from a Justice of the Peace.

XV. *And be it further Enacted,* That if any Person shall refuse to satisfy the Officer or Officers by this Act appointed, his Fees before mentioned, he shall have Power to detain so much of the Commodity as will make him Satisfaction for his Fees and Travel aforesaid: *Provided* that such Fees do not exceed the Sum of Twenty Shillings, and in case the same shall exceed the Sum of Twenty Shillings, then to be levied by Warrant of Distress and Sale of the Offender's Goods and Chattels, under the Hand and Seal of any One of His Majesty's Justices of the Peace, the Surplus, if any be, after paying the Officer's Fees and Charges of Distress and Sale, to be returned to the Owner of the said Goods.

Officers to be Sworn.

XVI. *And be it further Enacted,* That an Oath shall be administered to the several Officers that shall be chosen to gauge, survey and search the several Articles in this Act mentioned, in the following Form, *viz*

YOU swear, that you will from Time to Time diligently and faithfully discharge and execute the Office of _____ within the Limits whereto you are appointed for the ensuing Year, and until another be chosen in your Place; and that in and by all the Particulars mentioned in the Laws whereto your Office hath Relation; and that you will do therein impartially according to Law, without Fear or Favour.

Their Oath.

So help you GOD.

XVII. *And be it likewise Enacted,* That all Fines, Penalties, and Forfeitures arising by Force and Virtue of this Act, shall be one Half to His Majesty, towards the Support of His Majesty's Government of this Province, and the other Half to him or to them that shall inform or sue for the same; to be recovered in Manner following, (*That is to say*) Where the Forfeiture or Value thereof shall not exceed the Sum of Twenty Shillings, the same to be recoverable before any One of His Majesty's Justices of the Peace, by Oath of one credible Witness, to be levied by Warrant of Distress and Sale of the Offender's Goods and Chattels, under the Hand and Seal of such Justice, and for want of sufficient Distress, such Offender to suffer Twenty Days Imprisonment; and where the Forfeiture or Value shall amount to above Twenty Shillings, but shall not exceed the Sum of Three Pounds, then the same to be recoverable before any Two of His Majesty's said Justices of the Peace upon the like Proof as above, and to be levied by like Warrant under the Hands and Seals of such Justices, and for want of sufficient Distress the Offender to suffer Sixty Days Imprisonment; and in case such Forfeiture or the Value thereof shall exceed Three Pounds, the same to be recoverable by him or them who shall inform or sue for the same, in any of His Majesty's Courts of Record in this Province.

Penalties & Forfeitures, how to be levied, and applied.

XVIII. *And be it Enacted,* That this Act be read and published once every Year, at the opening of the first Courts of *General Quarter Sessions of the Peace* for the several Counties within this Province.

Act to be read once a Year, at the Quarter Sessions in each County.

At the GENERAL ASSEMBLY of the Province of *Nova Scotia*, begun and holden at *Halifax*, on the *First* Day of *July*, *Anno Domini* 1761, in the First Year of the Reign of Our Sovereign Lord GEORGE the Third, of *Great Britain, France and Ireland*, KING, Defender of the Faith, &c. and there continued by several Prorogations until the Twenty Fifth Day of *April*, 1763, in the Third Year of His said Majesty's Reign; being the Third Session of the Third *General Assembly* convened in the said Province.

C A P. I.

An ACT to prevent Frauds in the selling of *Flour*, and *Biscuit*, or *Ship Bread* in Casks.

E it Enacted by the Lieutenant Governor, Council and Assembly, That from and after the Publication hereof, all Casks of Beef and Pork which shall be sold, exposed to Sale, or battered, or bargained for in any Way or Manner whatsoever within this Province, shall contain. if the Produce of *America*, not less than Two Hundred and Twelve Pounds of neat Meat; and if from *Ireland*, not less than Two Hundred Pounds of neat Meat.

II. And be it also Enacted, That from and after the Publication hereof all Flour, Biscuit, or Ship Bread, that shall be sold, bartered, or exchanged within this Province, shall be sold, bartered or exchanged by Weight only, and in no other Way or Manner whatsoever.

III. And be it further Enacted, That no Person or Persons whatsoever shall hereafter presume to sell, barter, or exchange any Flour, Biscuit, or Ship Bread, by the Cask, or in any other Manner whatsoever,

Contents of Barrels
of Beef and Pork.

Flour and Biscuit to
be sold by Weight.

If sold in any other
Manner, to be for-
feited,

soever, other than by Weight as above directed, on Pain of forfeiting all such Flour, Biscuit, or Ship Bread, so sold, bartered or exchanged contrary to the Intent and Meaning of this Act: And every Person or Persons offending herein and being convicted thereof, shall also further forfeit and pay the Sum of Twenty Shillings for every Hundred Weight, and so in Proportion for a greater or less Quantity of such flour, Biscuit, or Ship Bread, so sold, bartered or exchanged; to be recovered, together with Costs of Prosecution, on the Oath of One credible Witness, before any Two of His Majesty's Justices of the Peace for the County where the Offence shall be committed.

and the Offender
to forfeit 20s. for
every Ct. Weight.

Conviction before
two Justices.

IV. *And be it further Enacted*, That all Forfeitures and Penalties incurred and arising by this Act shall be applied and disposed of in Manner following, (*that is to say*) all Flour, Biscuit or Ship Bread, which shall be forfeited by Virtue of this Act, shall be applied to the Use of the Poor of the Town or Place where the Offence shall be committed; and all and every other Penalties incurred by this Act, shall be applied to the Use of the Person or Persons who shall inform and sue for the same.

Application of For-
feitures and Pe-
nalties.

V. *Provided always*, That all Prosecutions to be brought by Virtue of this Act, shall be commenced within Ten Days after the Offence committed.

Prosecution to be
within ten Days.

At the GENERAL ASSEMBLY of the Province of *Nova Scotia*, begun and holden at *Halifax*, on the *First Day of July*, Anno Domini 1761, in the *First Year* of the Reign of Our Sovereign Lord GEORGE the Third, of *Great Britain, France, and Ireland*, KING, Defender of the Faith, &c. and there continued by several Prorogations until the Nineteenth Day of *October*, 1763, in the Third Year of His said Majesty's Reign; being the Fourth Session of the Third *General Assembly* convened in the said Province.

C A P. I.

An ACT to prevent Nuisances by Hedges, Wears, and other Incumbrances, obstructing the Passage of Fish in the Rivers in this Province.

Preamble.

***** HEREAS the erecting or setting up Hedges, Wears, Fishgarths or other Incumbrances, or placing Seines across any River to stop, obstruct, or straiten the natural Course and Passage of Fish in their Seasons for spawning, must be very detrimental, and may entirely destroy the Salmon, Bas, Shad, Ailwive, and Gaspero Fishery; which the new Settlers in general depend on, in a great Measure for their Subsistence; Therefore in order to preserve that valuable Support to the Inhabitants of this Province: Be it Enacted by the Lientenant Governor, Council and Assembly, That the Justices in their first General Quarter Sessions held in each County, annually, shall and are hereby impowered and directed to make Rules and Orders for the Regulation of the River Fishery in their Respective Counties, as they from Time to Time shall find necessary for the Preservation thereof.

River Fishery to be regulated by the Justices in their Quarter Sessions.

Persons transgressing these Regulations to forfeit £. 10

II. And it is hereby further Enacted, That if any Person or Persons shall presume to erect or set up any Hedge, Wear, Fishgarth, or other Incumbrance, or place any Seine or Seines across any River in this Province, contrary to the Rules and Regulations so fixed on, and established by the Justices in their said General Quarter Sessions annually, such Person or Persons shall, upon due Conviction thereof forfeit and pay the Sum of Ten Pounds, One half of which shall be for the Informer, and the other half for the Poor of the Township, where the Offence shall be committed, to be recovered by Action, Bill, Plaint or Information in any of His Majesty's Courts of Record.

One half to the Informer the other to the Poor.

The Justices in their General or Special Sessions to make Regulations for the River Fishery and affix a Penalty for

breach thereof not exceeding £. 10.

how recovered.

III. 16. Geo. 3. Ch. 4. It is Enacted by the Governor, Council and Assembly, That it shall and may be lawful for the Justices in their General or Special Sessions of the Peace, annually to make Rules and Orders for the Regulation of the River Fishery in their respective Counties and Districts, as they from Time to Time shall find necessary for the Preservation thereof, and to affix a Penalty for the Breach of the same, not exceeding Ten Pounds, to be recovered when the Sum does not exceed Twenty Shillings before one Justice, and when the Sum exceeds Twenty Shillings and not exceeding Three Pounds before two Justices, any Law, Usage or Custom to the contrary notwithstanding.

IV. And

IV. *And be it also Enacted,* That the said Justices in their Sessions as aforesaid, shall and may appoint two or more fit Persons to be Overseers of the River Fishery, who shall be sworn to the faithful Discharge of their Duty, and shall have Power to remove any Net, Hedge, Wear, Fish garth, Seine or other Incumbrance, that shall be found in any River contrary to the Regulations made by the said Justices.

V. *And be it also further Enacted,* That if any Net, Hedge, Wear, Fish garth, Seine, or other Incumbrance shall be found in any River, contrary to the Regulations so made by the said Justices, and no Owner appearing to claim the same in Ten Days after public Notice shall have been given, thereof, the said Net, or Seine, shall, together with the Fish found therein, be forfeited and sold, to satisfy the Penalties aforesaid, the Overplus if any to be paid to the Overseers of the Poor for the Use of the Poor of the Township where the Offence shall be committed.

VI. *Provided,* That nothing in this Act shall be construed to extend to such Rivers, to which Fish do not resort in the Seasons for spawning.

The Justices to appoint two or more fit Persons to be Overseers of the River Fishery.

If any Net, Hedge &c. is found in any River contrary to the Regulations the same with the Fish therein to be forfeit.

Nothing in this Act to extend to Rivers where Fish do not resort in Seasons for spawning.

C A P. II.

An Act to enable Proprietors of Lands to Assess and discharge the Expence which has accrued upon Dividing their Lands, by Virtue of a former Law of this Province.

HEREAS by an Act of this Province intituled, "*An Act to enable Proprietors to divide their Lands, held in Common and undivided,*" sundry Proprietors of Lands within this Province, have proceeded to a Division under the Sanction of the aforesaid Act, which has since been repealed; And Whereas considerable Expence has attended the making such Division, Be it Enacted by the Lieutenant Governor, Council, and Assembly, That all Persons, Proprietors of Lands within this Province, who by Virtue of an Act intituled, "*An Act to enable Proprietors to Divide their Lands, held in Common and undivided,*" have heretofore by a Majority of the Proprietors, agreed upon, and divided their Lands, under the Sanction, and agreeable to the Direction of the said recited Act; each and every such Proprietor shall

Preamble.

Proprietors of Lands held in common to pay their dividend of the Expence of dividing them.

M m

pay

pay their Dividend or proportional Part of all such Expence, as may have arisen from the making such Division.

The Accounts of such Expences to be audited by order of the Quarter Sessions, and approved by them, and each Proprietor to pay his Share.

II. *And be it further Enacted*, That all Accounts of Expences incurr'd for the Services aforesaid shall, before Payment, be laid before the Justices of the Peace for each County, in their *Quarter Sessions*, who are hereby impowered to appoint proper Persons to audit said Accounts, and to make a Dividend to each Right or Share of Land in such Propriety, in just and equal Proportion; which Dividend or Proportion, when approved of by the said Court of *Quarter Sessions*, shall be paid by each Proprietor or Person in Possession of such Lands, to the Person or Persons to be appointed by the Propriety to receive the same; and if any Proprietor or other Person in Possession of any Right or Share of Land, divided as aforesaid, shall refuse or neglect to pay his, her, or their respective Dividend or Proportion as aforesaid, it shall and may be lawful on Complaint of such Receiver appointed as aforesaid, for any One of His Majesty's Justices of the Peace to issue a Warrant of Distress and Sale of the Delinquents Goods and Chattels, for the Recovery of the same, with the Charges of Prosecution.

One Justice to let the Lands of Persons unable to pay, till their Dividend is made up.

III. *And be it further Enacted*, That if any Proprietors of Lands, divided as aforesaid, be absent, and no Person appearing in their Behalf, or shall be present, and have not any Goods or Chattels to answer his, her, or their Dividend or Proportion of Expences as aforesaid, it shall and may be lawful for any One of His Majesty's Justices of the Peace, residing in the Township where such Lands lie, to let out any Part of such Delinquent's Land, that may be sufficient to pay, by the Produce of the same, any such Dividend or Proportion then due.

Persons aggrieved thereby may complain for Redress to the Quarter Sessions.

IV. *Provided always*, That if any Person or Persons shall think themselves aggrieved by any Justice of the Peace, concerning the letting their Lands as aforesaid, such Person or Persons may complain to the Justices of the County in their *Quarter Sessions*, who are hereby impowered to hear and determine all such Complaints.

C A P. III.

An Act for the Relief of Insolvent Debtors.

Persons charged in Execution may apply by Petition, to the Court from whence the Process issued, or to Two Justices in Vacation, to be discharged,

Be it Enacted by the Honorable the Lieutenant Governor
B *Council, and Assembly*, That from and after the End of this present Session, if any Person or Persons now charged, or who shall or may hereafter be charged in Execution for any Sum or Sums of Money, and shall be minded to deliver up to his, her, or their Creditors, all his, her, or their Effects, towards

wards the Satisfaction of the Debts, wherewith he, she, or they stand charged, it shall and may be lawful to and for such Prisoner to exhibit a Petition to any of the Courts of Law within the said Province, or during the Intervals of the Sitting of such Courts, to any Two of the Justices of any such Courts, from whence the Process issued, upon which he, she, or they was or were taken or charged in Execution, certifying the Cause or Causes, of his, her, or their Imprisonment, and an Account of his, her, or their whole Real or Personal Estate, with the Dates of the Securities wherein any Part of it consists, and the Deeds or Notes relating thereto, and the Names of the Witnesses thereto, as far as his, her, or their Knowledge extends therein; and upon such Petition the said Court or the said two Justices may, and are hereby required by Order or Rule of the said Court, or by Order under the Hands and Seals of the said Two Justices, and the several Creditors at whose Suit he, she, or they stand charged as aforesaid, to be summoned to appear personally, or by their Attorney in the said Court, or before them the said Two Justices, at a Day to be appointed for that Purpose; and upon the Day of such Appearance, if any of the Creditors summoned refuse or neglect to appear, upon Affidavit of the due Service of such Rule or Order of the said Two Justices, the said Court or the said Two Justices shall and may in a summary Way, examine into the Matter of such Petition, and hear what can or shall be alledged on either Side, for or against the Discharge of such Prisoner, and upon such Examination the said Court or the said Two Justices may, and are hereby required to administer or tender to the Prisoner, an Oath to the Effect following, which Oath the said Court, or the said Two Justices are hereby empowered to Administer.

on giving an Account of their Real and Personal Estate.

The Court or Justices to make an Order to call the Creditors before them.

If Creditors fail to appear, the Court or Justices may examine into the Matter of the Petition.

and tender an Oath to the Prisoner.

I. A. B. Do solemnly Swear in the Presence of Almighty G. D. O. that the Account by me deliver'd into

The Oath.

In my Petition to

Doth contain a true and full Account of all my Real and Personal Estate, Debts, Credits, and Effects whatsoever, which I, or any in Trust for me, have, or at the Time of my said Petition had, or am or was in any Respect intitled to in Possession, Remainder or Reversion, (except the Wearing Apparel and Bedding for me or my Family, and the Tools or Instruments of my Trade or Calling, not exceeding Ten Pounds in the whole) and that I have not at any Time since my Imprisonment or before, directly or indirectly, sold, leased, assigned or otherwise disposed of, or made over in Trust for myself, or otherwise, other than as mentioned in such Account, any Part of my Lands, Estate, Goods, Stock, Money, Debts, or other Real or Personal Estate, whereby to have or expect any Benefit or Profit to myself, or to defraud any of my Creditors, to whom I am indebted.

So help me G O D.

II. And

If the Creditors are satisfied of the Truth of the Prisoner's Oath, the Court or Justices may order the Lands, &c. to be assigned to the Creditors;

and the Prisoner to be discharged.

Prisoner's Lands, &c. to be divided among the Creditors.

If Creditors are not satisfied of the Truth of the Prisoner's Oath, before the Two Justices; the Prisoner to be remanded, and the Matter further enquired of by the Court.

II. *And be it further Enacted,* That in Case the said Prisoner shall in open Court, or before the said Two Justices, take the said Oath, and upon such Examination and his or her taking the said Oath, the Creditors shall be satisfied with the Truth thereof, the said Court or the said Two Justices may immediately order the Lands, Goods, or Effects, contained in such Account, or so much of them as may be sufficient to satisfy the Debts wherewith he, or she, is or shall be charged, and the Fees due to the Sheriff of the said Province, and the Keeper of the Goal or Prison from which the Prisoner was brought, to be by a short Indorsement on the Back of the said Petition, signed by the Prisoner, assigned to the said Creditors, or to one or more of them, in Trust for the rest of the said Creditors, and by such Assignment, the Estate, Interest, and Property of the Lands, Goods, Debts, and Effects so assigned, shall be vested in the Person or Persons to whom such Assignment is or shall be made, who may take Possession of, or sue for the same in his, or their own Name or Names in like Manner as assignees of Commissioners of Bankrupts, to which Suit no Release of the Prisoner, his, or her Executors, or Administrators, or any Trustees for him or her, subsequent to such Assignment, shall be any Bar; and immediately upon such Assignment executed, the said Prisoner shall be discharged out of Custody by Order of the said Court, or of the said Two Justices, and such Order shall be a sufficient Warrant to the Sheriff, Goaler, or Keeper of such Prison, to discharge the said Prisoner, if detained for the Causes mentioned in such Petition and no other; and he is hereby required to discharge and set him, or her at Liberty forthwith without Fee: Nor shall such Sheriff, or Goaler, be liable to any Action of Escape or other Suit or Information upon that Account, and the Person or Persons to whom the said Effects shall be assigned, paying the Fees to said Sheriff, Goaler or Keeper of the Prison, in whose Custody the Party discharged was, shall and are hereby required to divide the effects so assigned among themselves, and all the Persons for whom they shall be intrusted, in Proportion to their respective Debts: But in Case the Person or Persons at whose Suit such Prisoner was charged in Execution, or any of them, shall not be satisfied with the Truth of the Oath of such Prisoner before the Two Justices aforesaid, and shall desire further Time to inform himself or herself of the Matters contained therein, and shall insist upon his, or her, being detained longer in Prison, at his or their Suit, then the said Justices shall and may remand the said Prisoner, and direct the said Prisoner, and the Person or Persons dissatisfied with such Oath, to appear before the Court whence the Process issued as aforesaid, at a certain Day during the Sitting of the said Court then next following such Examination, and to be by them at that Time appointed, for the further Examination of the Matters contained in the said Oath; Provided the said Person or Persons so dissatisfied, do agree by Writing under his or their Hands, to supply and allow Weekly the full Quantity of Eight Pounds of good

good and wholesome Biscuit Bread per Week unto the said Prisoner, to be so supplied and allowed the First Day of every Week from and after the Time of such Prisoner's being so remanded, until the said Day so appointed for the further Examination of the Truth of the Matters contained in the aforesaid Oath before the said Court as aforesaid; on Failure of the supplying of which weekly Allowance at any Time, the said Prisoner shall forthwith upon Application to the said Court, or to the said Two Justices, be discharged by such Order as aforesaid; but in Case the said Prisoner shall refuse to take the Oath before the said Two Justices, or having taken the same, shall be detected of Falsity therein, he or she shall be presently remanded.

III. *And be it also Enacted*, That such Judgment, Relief, and Directions by the said Two Justices, so to be given as aforesaid, shall be as good and effectual to all Intents and Purposes, as if the same had been made in the Court out of which the Process issued, on which such Prisoner was taken in Execution; and the like Proceedings shall be had thereupon, and a Record of such Judgment shall be made up in the same Form, and returned, and certified under the Hands of such Two Justices before whom it shall be made, unto the Court from whence the Process on which such Prisoner was taken in Execution issued, to be a Record of the said Court, and to be kept as such amongst the Records there.

IV. *And be it further Enacted*, That if on the Appearance of such Prisoner or Prisoners before the said Court as aforesaid, at such second Day so to be appointed by the said Two Justices, the Creditor or Creditors of such Prisoner or Prisoners dissatisfied with the Truth of such Oath, before the said Two Justices, shall make Default in appearing; or in Case he, she, or they shall appear, but shall be unable to discover any Estate or Effects of the Prisoner omitted in such his, or her Petition, or to shew any Probability of his, or her, having been forsworn in the said Oath, then the said Court shall immediately cause the said Prisoner to be discharged upon such Assignment of his or her Effects in Manner as aforesaid, unless such Creditor or Creditors do insist upon his, or her, being detained longer in Prison at their Suit, and do agree by Writing under his, her or their Hands, to supply and allow Weekly the full Quantity of Eight Pounds of good wholesome Biscuit Bread per Week, unto the said Prisoner, to be supplied and allowed the first Day of every Week, so long as he, or she shall continue in Prison at his, her, or their Suit as aforesaid; on Failure of the Supply of which weekly Allowance at any Time, the Prisoner shall forthwith, upon Application to the said Court, or during the Interval of such Courts Sitting, to the said Two Justices, be discharged by such Order as aforesaid.

and such Creditors to allow the Prisoner Eight Pounds of Biscuit per Week in the Mean Time on Failure whereof the Prisoner to be discharged.

Proceedings of the Two Justices to be effectual, and a Record thereof to be made and returned to the Court.

If upon the Prisoner's appearing before the Court, the Creditors shall not appear, or shew a Probability, that the Prisoner is forsworn, &c. the Prisoner to be discharged, unless the Creditor insist on his being longer detained, &c. agree to the weekly allowance of Bread;

on Failure whereof, the Prisoner to be discharged.

Proceedings when
the Prisoner peti-
tions during the
Sitting of the Court.

V. *And be it Enacted*, That in case on the Appearance of the said Prisoner, before any of the said Courts of Law in this Province, on his Petition to them at any Time during their Sitting; preferred as aforesaid, the Person or Persons at whose Suit such Prisoner was charged in Execution, or any of them, shall not be satisfied with the Truth of the said Prisoner's Oath, at that Time made, but shall desire further Time to inform himself or herself of the Matters contained therein, the said Court may and shall remand the said Prisoner, and direct the said Prisoner, and the Person or Persons dissatisfied with such Oath, to appear at another Day to be appointed by the said Court sometime within and during their then present Sessions, for that Purpose; subject in the mean Time and until such second Day, to the same Allowance to the said Prisoner, by such Person or Persons so dissatisfied with the said Prisoner's Oath, and liable to the like Discharge in Case of Default of such Allowance as is herein before directed, upon Application to the said Two Justices as aforesaid: And if at such second Day so to be appointed, the Creditor or Creditors dissatisfied with such Oath, shall make Default in appearing, or in Case he, she, or they shall appear, but shall be unable to discover any Estate or Effects of the Prisoner, omitted in such his or her Petition, or to shew any Probability of his, or her having been forsworn in the said Oath, then the said Court shall immediately cause the said Prisoner to be discharged, upon such Assignment of his, or her Effects in Manner as aforesaid, unless such Creditor or Creditors do insist upon his, or her, being longer detained in Prison at their Suit, and do agree by Writing under his, her, or their Hands, to supply and allow Weekly the Quantity of Eight Pounds of good and wholesome Biscuit Bread per Week, unto the said Prisoner, to be supplied and allowed the first Day of every Week, so long as he, or she, shall continue in Goal, at his, her, or their Suit; on Failure of the supplying of which weekly Allowance at any Time, the said Prisoner shall forthwith upon Application to the Court, or during the Interval of such Courts Sittings, to any Two Justices of the said Court, be discharged by such Order as aforesaid; but in Case the said Prisoner shall refuse to take the said Oath, or having taken the same, shall be detected of Falsity therein, he or she shall be presently remanded.

Time limited for
Prisoners to present
their Petitions.

VI. *And to prevent Persons who may be charged in Execution from lying in Prison, until they have spent their Substance wherewith they should satisfy their Creditors, and afterwards taking the Benefit of this Act, where they have nothing left to deliver up to their Creditors; it is hereby Enacted*, That no Person charged or to be charged in Execution, excepting those already in Goal, shall be allowed or permitted to exhibit a Petition to any of the Courts of Law in this Province, or to any of the said Two Justices of such Courts, from whence the Process issued as is before provided, unless such Petition be exhibited, if before the Court,
within

within Ten Days next after the first Meeting of the said Court which shall be next after such Person shall be so charged in Execution, and if before the said Two Justices, within Fourteen Days next after such Person shall be so charged in Execution :

VII. *Provided always*, That tho' the Persons of the Debtor or Debtors so discharged, shall never after be arrested for the same Debt or Debts, yet notwithstanding such Discharge the Judgment against him, or her, shall stand and remain in Force, and Execution may be taken out thereon against his, or her Lands, Tenements, or Hereditaments, Goods, and Chattels, (his, or her Wearing Apparel, Bedding for him, or herself and Family, and necessary Tools for the Use of his or her Trade or Occupation excepted) in the same Manner as if he or she had never been taken in Execution for the said Debt.

VIII. *Provided also*, That if any Person who shall take such Oath as aforesaid, before the said Two Justices, or before the said Court as aforesaid, shall upon any Indictment for Perjury, in any Matter or Particular contained in the said Oath, be convicted by his, or her own Confession, or by Verdict of Twelve Men, as he, or she, may be by Force of this Act, the Person so convicted shall suffer all the Pains and Forfeitures which by Law be inflicted on any Person convicted of wilful Perjury, and shall be liable to be taken upon any Process *de novo*, and charged in Execution for the said Debt, in the same Manner as if he, or she, had never been discharged or taken in Execution before, and shall never afterwards have the Benefit of this Act.

IX. *Provided also*, That if the Effects so assigned, shall not extend to satisfy the whole Debts due to the Persons at whose Suit he or she was charged, and the Fees due to the said Sheriff or Goaler, there shall be an Abatement in Proportion; and such Sheriff or Goaler shall come in as a Creditor, for what shall be then due to him for his Fees, in Proportion with the Creditors at whose Suit he or she was charged in Execution.

X. *And be it likewise Enacted*, That every Sheriff or his Deputy, Bailiff, or other Officer or Minister aforesaid, offending against this Act, shall (over and above such Penalties or Punishments as he shall be liable unto, by the Law now in Force) for every Offence against this present Act, forfeit and pay to the Party thereby grieved, the Sum of Fifty Pounds, to be recovered with treble Costs of Suit, by Action of Debt, Bill, Plaint, or Information, in any of the Courts of Law within this Province, wherein no Essoign, Protection, or Wager of Law, or more than one Imparlance shall be allowed.

XI. *And be it Enacted*, That in Cases wherein by this Act an Oath is required, the solemn Affirmation of any Person being a Quaker, shall and may be accepted and taken in Lieu thereof, and every Person making

Tho' Prisoner's Person be discharged, his Lands, &c. to be always liable.

If prisoner afterwards be convicted of Perjury in said Oath, he shall suffer all the Pains of wilful Perjury,

and may be taken *de novo*, and charged again in Execution for the said Debt.

Sheriff or Goaler to come in as a Creditor for their Fees.

Sheriff &c. offending against this Act, forfeits £50.

Quakers Affirmation to be taken instead of an Oath.

making such Affirmation, who shall be convicted of wilful and false Affirming, shall incur and suffer such and the same Pains, Penalties and Forfeitures, as are inflicted and imposed by the Laws and Statutes now in Force, upon Persons convicted of wilful and corrupt Perjury.

XII. *Provided nevertheless*, That nothing in this Act contained, shall extend or be construed to extend, to discharge any Debtor imprisoned, the whole Amount of whose Debts shall exceed the Sum of One Hundred Pounds; nor that this Act shall be in Force, till His Majesty's Pleasure be known therein.

No Debtor to be discharged, whose Debts exceed £100. Act suspended till His Majesty's Pleasure be known. Confirmed by His Majesty in Council.

C A P. IV.

An A C T to Enable the Inhabitants of the several Townships within this Province to maintain their Poor.

Be it Enacted by the Lieutenant Governor, Council and Assembly, That from and after the Publication hereof, it shall and may be lawful for the Inhabitants of the several Townships in this Province to hold two Meetings annually if necessary to make Provision for their Poor, previous Notice being first given by the Overseers of the Poor for the time being who shall issue their Precept to the Constables of the several Townships requiring them to notify the Inhabitants to meet on the Days hereafter appointed at least Ten Days before the Time of meeting. And if said Overseers shall neglect to issue their precept as aforesaid each of the said Overseers shall forfeit and pay to the Treasurer of the County for the Use of the Poor the Sum of Ten Pounds, to be recovered by Bill, Plaint or Information in any of his Majesty's Courts of Record.

Two Annual Meetings to provide for the poor.

Notice by Overseers.

Overseers neglecting

To pay Ten Pounds

Meetings in April and November.

II. *Be it further Enacted*, That the Time for holding the said Meetings shall be on the first Mondays in *April* and *November*, when and where the said Inhabitants (a Chairman being first chosen) shall and may proceed to choose five Freeholders, any three of whom to be a Quorum, who are hereby empowered to Assess the Inhabitants of said Township for such Sum as shall be granted by the Majority of the Inhabitants so assembled for the Relief of the Poor to be assessed in just and equal proportions according to each persons known Estate either real or Personal, and if any person so assessed shall refuse or neglect to pay said assessment to the person or persons appointed by the said Inhabitants to collect the same, the same

same shall be levied by Warrant of Distress, and Sale, by any one Justice of the Peace. And in Case the Business so to be transacted at the said Meetings cannot be completed on the said Days, it shall and may be lawful for the Chairman with the Consent of the Majority of the Inhabitants then present, to adjourn the same to the day following, or to any other Day. And in Case also the said Assessors shall neglect or refuse to meet and make the said Assessment within Twenty Days after their Appointment, each and every Person so refusing or neglecting, shall be subject to a Fine of Five Pounds for the use of the Poor of such Township, which shall on Failure of Payment be levied on Complaint of the Overseers of the Poor by Warrant of Distress and Sale from two Justices of the Peace, and another Assessor shall be appointed in his Stead. *Provided* no Person shall be obliged to serve as an Assessor oftner than once in three Years.

Chairman to adjourn.

Assessors neglecting.

to pay £5.

III. *Be it further Enacted*, That the said Inhabitants in such their annual Meeting shall be, and are hereby empowered to vote such Sums of Money as they shall Judge necessary for the current Year to support and maintain the Poor; and if the Sum so voted shall not be sufficient the said Inhabitants in such their next Meeting shall and may vote such further Sums as shall be thought necessary to make good such Deficiency.

Inhabitants empowered to vote Money.

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

Appeal allowed to the Sessions.

V. *And be it Enacted*, That the Person or Persons appointed to collect the Assessments aforesaid, shall once in three Months account with and pay into the Hands of the Overseers of the Poor of such Township all such Sums of Money as he, or they may have received, and upon his or their Neglect or Refusal to account and pay in the same as aforesaid, such Sums shall and may be recovered by the Overseers of the Poor for the Time being by Bill, Plaint or Information, in any of his Majesty's Courts of Record within this Province.

Collectors to account to the Overseers.

VI. *And be it further Enacted*, That if the Person or Persons so appointed to collect said Assessments shall refuse to serve in his said Office, he shall forfeit and pay to the use of the Poor the Sum of Forty Shillings, and if upon his or their Acceptance of said Office, he or they shall for the space of Thirty Days neglect his or their Duty therein, every such Collector or Collectors shall forfeit and pay the Sum of Five Pounds for every such Neglect to be recovered by the Overseers of the Poor in any of his Majesty's Courts of Record.

Collector refusing to serve to pay 40s.

Neglecting his duty to pay £5.

Overseers to Account an Oath to the Sessions.

Neglecting their Duty to pay s^l.

Five Pounds.

Persons incapable of paying not to be taxed.

Inhabitants Neglecting to meet.

The Sessions may amerce the Township.

7. Geo. 3. Ch. 3.
8. Geo. 3. Ch. 5.
8. Geo. 3. Ch. 1. 2 Sess.
10. Geo. 3. Ch. 2.
12. Geo. 3. Ch. 6.
16. Geo. 3. Ch. 1.
17. Geo. 3. Ch. 8.

VII. *And be it also Enacted*, That the Overseers of the Poor of each Township respectively shall dispose of the Monies voted and received for the Purposes aforementioned only, and shall account on Oath if required before the *General Sessions of the Peace* held next after the Expiration of their Office for all Monies raised and disbursed by them for the Support of the Poor and shall enter their Proceedings in a Book to be kept for that Purpose, and at the Expiration of their Office shall deliver the same to their Successors; and if the said Overseers do not for the future within one Month after the Expiration of their Office shall render an Account to the Clerk of the Peace of the County in which they reside to be by him laid before the said Justices of the Sessions of all Monies so disbursed as aforesaid, they shall on Complaint of said Clerk of the Peace, or of one or more Inhabitants forfeit and pay the Sum of Five Pounds, to be levied by Warrant of Two of his Majesty's Justices of the Peace for the Use of the Poor.

VIII. *And be it further Enacted*, That no Person shall be assessed any Thing towards the Support of the Poor unless in the Opinion of the Assessors he shall be able to pay the Sum of one Shilling at least annually.

IX. *And be it also Enacted*, That in all Cases where the Inhabitants of any Township shall neglect to meet and vote such Sums as may be necessary for the Support of their Poor, the Justices at their Special Sessions of the Peace, shall on the Application of the Overseers of the Poor, amerce such Township in such Sum or Sums of Money, as they shall think requisite for that Purpose, and they shall also at such Sessions appoint five Freeholders, (three of which to be a Quorum) to assess the Sum so amerced on the Inhabitants, which Assessment so made, shall be affixed in some publick Place in such Township at least Three Days before the End of the same Sessions, that any of the Inhabitants so assessed, may if they see cause appeal therefrom, and that the Justices may determine thereon the same Sessions. Which Sum so amerced shall be levied, paid and applied for the Support of the Poor of such Township, and if the Assessors so appointed shall refuse or neglect to serve in said Office, they shall be subject to a Fine of *Forty Shillings* each, for the Use of the Poor to be levied by Warrant of Distress and Sale, and others shall be appointed in their Room.

At the GENERAL ASSEMBLY of the Province of *Nova Scotia*, begun and holden at *Halifax*, on the *First Day of July, Anno Domini 1761*, in the *First Year* of the Reign of Our Sovereign Lord **GEORGE** the Third, of *Great Britain, France, and Ireland*, KING, Defender of the Faith, &c. and there continued by several Prorogations until the *Twenty Second Day of March 1764*, in the *Fourth Year* of His said Majesty's Reign; being the *Fifth Session* of the *Third General Assembly* convened in the said Province.

C A P. I.

An ACT for amending Defects in Pleas, Processes and Records.

*E*t it Enacted by the Lieutenant Governor, Council, and Assembly, That for Error in any Record, Process or Warrant of Attorney, Original Writ or Judicial, Panel or Return, in any Places of the same razed or interlined, or in any Addition, Subtraction, or Diminution of Words, Letters, Syllables, or Titles found therein, no Judgment or Record shall be reversed or annulled, but the Judges of the Courts before whom such Records and Process shall be depending, shall have Power to examine such Records and Process Words, Pleas, Warrants of Attorney, Writs, Panels, or Return, by them and their Clerks, and to reform and amend, in Affirmance of the Judgments of such Records and Processes, all that which to them in their Discretion seemeth to be Misprision of their Clerks, in such Record, Processes, Word, Plea, Warrant of Attorney, Writ, Panel and Return, except Appeals, Indictments, of Treasons and Felonies, and the Outlawries for the same, † and the Substance of the proper Names, Surnames, and Additions left out in Original Writs, and Writs of Exigent, and any other Writs containing Proclamation.

*Eng. Stat. 3. H. 6.
c. 12. Sect. 1. 2.*

No Judgment, &c. to be reversed for any Writ razed or interlined.

The Judges may amend all Defects which are Misprision of their Clerk,

Except Appeals, &c.

† 1. *Bar. Abr. C.L.
p. 95. Lit. C.*

* Eng. Stat. 5. Geo. 1. c. 13. Writs of Error varying from the Record may be amended.

† Eng. Stat. 10. Eliz. c. 14. 16. & 17. Car. 2. cap. 8. 1. Vent. 200. 5. Geo. 1. c. 13. After Verdict no Judgment shall be stayed, &c. for any Defect in any Bill, &c.

Not to extend to Appeals of Felony, &c.

II. And be it further Enacted, by the Authority aforesaid, That * all Writs of Error, Appeals from Judgments in any Action, Real, Personal, or Mixt, according to the Course of Proceedings in this Province, wherein there shall be any Variance from the Original Record, or other Defect, may and shall be amended and made agreeable to such Record, by the Courts where such Writ or Writs of Error, or such Appeals shall be returnable †; and that where any Verdict shall be given in any Action, Suit, Bill, Plaint or Demand, in any of His Majesty's Courts of Record, within this Province, the Judgment thereupon shall not be stayed or reversed for any Defect or Fault either in Form or Substance, in any Bill, Writ Original or Judicial, or for any Variance in such Writs from the Declaration or other Proceedings.

III. Provided nevertheless, That nothing in this Act contained, shall extend, or be construed to extend, to any Appeal of Felony or Murder, or to any Process upon any Indictment, Presentment, or Information, of or for any Offence or Misdemeanor whatsoever.

C A P. II.

An ACT for preventing Abatement and Discontinuance of Suits.

Eng. Stat. 8. & 9. Will. 3. c. 11. Sect. 6.

1. Salk. 352.

Plaintiff or Defendant dying before final Judgment, Action not to abate.

***** E it Enacted by the Lieutenant Governor, Council and Assembly, That in all Actions to be commenced in any Court of Record, from and after the First Day of June next ensuing, if any Plaintiff happen to die after an interlocutory Judgment and before a final Judgment obtained therein, the said Action shall not abate by Reason thereof, if such Action might be originally prosecuted, or maintained by the Executors or Administrators of such Plaintiff, and if the Defendant die after such interlocutory Judgment and before final Judgment therein obtained the said Action shall not abate, if such Action might be originally prosecuted, or maintained against the Executors or Administrators of such Defendant; and such Court is hereby empowered to try the said Action, and to determine and give Judgment thereon, in the same Manner as if the said Suit had been commenced by, or against such Executors or Administrators, as in Right of their Testators or Intestates.

Eng. Stat. 8. & 9. Will. 3. c. 11. Sect. 7.

II. And be it further Enacted, by the Authority aforesaid, That if there be two or more Plaintiffs, or Defendants, and one or more of them should die, if the Cause of such Action, shall survive to the surviving Plaintiff or Plaintiffs, or against the surviving Defendant or Defendants, the Writ or Action shall not be thereby abated but

but such Death being suggested upon the Record, the Action shall proceed at the Suit of the surviving Plaintiff or Plaintiffs, against the surviving Defendant or Defendants.

Action may proceed notwithstanding the Death of one of the Parties.

III. *And be it further Enacted,* That in all Actions Personal and Real, or Mixt, the Death of either Party between the Verdict and the Judgment shall not hereafter be alledged for Error, so as such Judgment be entered within Two Terms after such Verdict.

Eng. Stat. 17. Car. 2. c. 8. Sect. 1.
Death of either Party between Verdict and Judgment.

IV. *And be it further Enacted,* by the Authority aforesaid, That where any Judgment after a Verdict shall be had, by or in the Name of any Executor or Administrator, in such Case an Administrator *de bonis non* may sue forth a *Scire facias*, and take Execution upon such Judgment.

Eng. Stat. 17. Car. 2. c. 8. Sect. 2.
Judgment obtained by an Executor.

V. *And be it further Enacted,* That no Procefs or Suit before any Justices of Assize, Goal Delivery, Oyer and Terminer, Justices of the Peace or other Commissioners, shall be discontinued by the making and publishing of any new Commission or Association, or by altering the Names of the Justices of Assize, Goal Delivery, Oyer and Terminer, Justices of Peace or other Commissioners, but such new Justices of Assize, Goal Delivery, and of the Peace and other Commissioners, may proceed as if the former Commissions, Justices or Commissioners, had remained and continued without Alteration.

Eng. Stat. 1. Ed. 6. c. 7. Sect. 6.
No Suit before Justices shall be discontinued by a new Commission.

At the GENERAL ASSEMBLY of the Province of *Nova Scotia*, begun and holden at *Halifax*, on the *Twenty Eighth* Day of *May*, *Anno Domini* 1765, in the Fifth Year of the Reign of Our Sovereign Lord **GEORGE** the Third, of *Great Britain, France and Ireland*, KING, Defender of the Faith, &c. being the First Session of the Fourth *General Assembly* convened in the said Province.

C A P. I.

An ACT for the Choice of Town Officers and regulating of Townships.

Preamble.

Grand Jury at the first General Quarter Sessions Annually to nominate, and the Court to appoint,

Surveyors of Lines and Bounds, and Overseers of the Poor,

Town Clerk,

Constables,

Fence Viewers, Clerk of the Market,

Pound Keepers,

Cullers and Surveyors of Fish,

Surveyors of Lumber,

Sealers of Leather,

Gaugers of Casks,

Hogreaves,

17. Geo. 3. Ch. 1.

HEREAS the Method of nominating the respective Town Officers herein after mentioned by the Grand Jurors for the several Counties, as directed by the Laws of this Province, is found inconvenient; Be it Enacted by the Governor, Council, and Assembly, That the Grand Juries for the several Counties in this Province, at the Court of General Sessions of the Peace for each County respectively, next ensuing the Publication of this Act, and thereafter annually at the First Sessions of the said Court, shall nominate out of every Township in the said County, Ten fit Persons, out of whom the said Court shall appoint Five to be Surveyors of Lines and Bounds of each respective Township, who are hereby empowered to survey examine, and ascertain the Lines and Bounds of their said respective Townships, agreeable to the several Grants thereof, and who shall also be Overseers of the Poor of the said Township; and at the same Time the said Grand Jury shall in like Manner nominate two Persons, one of whom the Court shall appoint to be Town Clerk of the said Town, who shall be sworn truly to enter and record all such Matters and Things, as shall relate to the said Township, and shall appertain to his Office; and shall also nominate Four or more Constables, of whom the Court shall appoint Two or more as they shall see convenient to be Constables in the said Township; and also shall nominate Four Fence Viewers, of whom the said Court shall appoint Two to be Fence Viewers in the said Township; and also shall nominate Two Clerks of the Market, of whom the said Court shall appoint One to be Clerk of the Market in said Township; and shall also nominate Four Pound Keepers, of whom the said Court shall appoint a sufficient Number in their Discretion to be Pound Keepers in the said Township; and shall also nominate Four or more Cullers and Surveyors of Fish, of whom the said Court shall appoint a sufficient number in their Discretion to be Cullers and Surveyors of Fish in the said Township: and shall also nominate Four Surveyors of Lumber and Cord Wood, of whom the said Court shall appoint two to be Surveyors of Lumber and Cord Wood in the said Township; and shall also nominate Two Sealers of Leather, of whom the said Court shall appoint one to be Sealer of Leather in the said Township; and shall also nominate Four Gaugers of Casks, of whom the said Court shall appoint Two to be Gaugers of Casks in the said Township; and shall also nominate Four Hogreaves, of whom the said Court shall appoint Two to be Hogreaves in the said Township. And shall also nominate Six fit Persons out of which the Court shall appoint three to be Assessors of all such Rates and Taxes as are now payable or which may hereafter be payable by any Act or Acts of the General Assem-

Assembly of this Province and Four Persons out of which the Court shall appoint Two to be Collectors of all Rates and Taxes in each Township and Four Persons out of which the Court shall appoint Two to be Surveyors and Weighers of Hay in each Township. Who shall respectively be sworn to the faithful Discharge of their Duty in Manner as is already prescribed by the Laws of this Province, and shall in every respect conform to the said Laws, and upon their, or any of their Refusal to accept, or being guilty of any Neglect, or Misbehaviour in the Execution of the Duty of their respective offices; they shall forfeit and pay for the Use of the Poor of the said Township, the Sum of Forty Shillings for every such Refusal, Neglect, or Misbehaviour; to be recovered upon Proof of such Refusal, Neglect or Misbehaviour, by the Oath of one Credible Witness, before any Two of His Majesty's Justices of the Peace for the County wherein such Township lies, to be levied by Warrant of Distress and Sale of the Offender's Goods and Chattels, any Law, Usage, or Custom to the contrary notwithstanding: And if any Person so nominated and chosen, shall leave the Province, change the Town of his Residence, or happen to die within the Period, for which he was nominated and appointed to serve in any of the said Offices, in such Case any Two of his Majesty's Justices of the Peace for the County, shall and may nominate and appoint a fit Person or Persons, to serve in such vacant Office, until another shall be nominated by the Grand Jury, and appointed by the said Court of General Sessions, at their Meeting next ensuing such Vacancy.

VII. 17. Geo. 3. Ch. 1. Sect. 2. It is Enacted, That the Surveyors and Weighers of Hay, shall be paid for their Trouble in viewing and weighing Hay, at the Rate of one Penny per Hundred Weight, and four Pence per Mile Travel, if such Travel shall exceed one Mile, to be paid by the Seller.

II. Provided always; That nothing in this Act contained shall extend, or be construed to extend to restrain any Privileges that may hereafter be granted, by any Charter of Incorporation, to any Town or Towns within this Province.

III. And for the better regulating the several Townships in this Province; Be it Enacted, That the original Boundary Lines of each and every Township or District within this Province, shall be run betwixt Township and Township, and Marks renewed once in Three Years, viz. on the First Monday in March, by the Surveyors of Lines and Bounds appointed for the respective Townships, as directed by this Act, or the major Part of them, and the Persons so appointed for each respective Township are hereby impowered and directed to give Six Days Notice to the Persons appointed for the adjacent Townships, of the Time and Place of Meeting for such Survey, and any Person or Persons appointed as aforesaid, refusing or neglecting to attend at the Place

Persons refusing to accept, or being guilty of Neglect or Misbehaviour, to forfeit 40s. for the use of the Poor,

in Case of Absence, &c. others to be appointed by two Justices.

Allowance to the Surveyors & weighers of hay.

Not to extend to any Towns that may be hereafter incorporated.

Boundary Line, to be run and Marks to be renewed once in three Years.

On Six Days Notice, Surveyors

neglecting to attend, forfeit 40s.

Place mentioned in such Notice, being duly served therewith, shall forfeit and pay the Sum of Forty Shillings each, to be recovered on Complaint before any Two of his Majesty's Justices for the County where such Complaint shall be made, and one Half of the Forfeiture shall be paid to the Person or Persons who shall complain and prosecute for the same, and the other Half to the Overseers of the Poor, for the Use of the Poor of such Towns from whence the Complaint was made; and whenever the Surveyors of any Township, which shall have had Notice as aforesaid, shall refuse or neglect to attend the said Business, the Surveyors who shall have given such Notice shall, and they are hereby impowered to proceed in running and making such Line, which shall be as effectual as if the Surveyors of both Townships had joined.

Proprietors of Lands unfenced, or Common Fields once in Two Years.

on Six Days Notice, to run the Lines and keep up the Boundaries, or forfeit 20s.

Common Fields to be ordered, improved and fenced, as shall be agreed on by the major Part of the Proprietors.

Persons refusing to fence their Proportion, to pay double the Cost for the same, to be done by the Fence Viewers.

IV. *And be it further Enacted*, That each and every Proprietor of Lands laying unfenced, or in any Common Field, shall once in Two Years on Six Days Notice given him, his Agent or Attorney, by the next Proprietor or Proprietors adjoining, run the Lines, make and keep up the Boundaries of such Lands or Common Field, by Stones or other sufficient Marks, and every Party so neglecting or refusing, shall forfeit the Sum of Twenty Shillings, one Half of which shall be to the Party complaining, and the other Half to the Overseers of the Poor for the Use of the Poor of said Township, and to be heard and determined before any One of his Majesty's Justices of the Peace within the same County; and the Proprietors of any Field held in Common, whether divided or undivided, shall, and they are hereby impowered to order, improve and fence, in such Way or Manner as shall be concluded and agreed upon by the major Part of the interested therein; the Voices to be collected and accounted according to their respective Interests; and if any Person shall refuse to make, keep up, support, and maintain his *quota* Part or Proportion of such Fence so agreed on to be made, and shall on Notice given him for that Purpose by any one of the Proprietors concerned with him in the said Common Field, neglect the same for the Space of Thirty Days, the Fence Viewer shall, on Application being made to him, make and set up the deficient Fence, or repair any Fence already made, if in his Judgment the same is insufficient, and the Person or Persons, that of Right ought to build and maintain the same, shall pay double the Costs and Charges, expended for the doing thereof, and in Case of Refusal such Fence Viewer may recover the same before the *Inferior Court of Common Pleas* or before One or Two Justices according to the Value thereof; and the said Fence Viewer, shall be allowed Three Shillings *per Day* for his own Trouble, and Time expended therein.

V. And if any Person or Persons shall neglect or refuse to comply with any Regulation made by the Proprietors of any Common Field

but such Death being suggested upon the Record, the Action shall proceed at the Suit of the surviving Plaintiff or Plaintiffs, against the surviving Defendant or Defendants.

Action may proceed notwithstanding the Death of one of the Parties.

III. *And be it further Enacted*, That in all Actions Personal and Real, or Mixt, the Death of either Party between the Verdict and the Judgment shall not hereafter be alledged for Error, so as such Judgment be entered within Two Terms after such Verdict.

Eng. Stat. 17. Car. 2. c. 8. Sect. 1.
Death of either Party between Verdict and Judgment.

IV. *And be it further Enacted*, by the Authority aforesaid, That where any Judgment after a Verdict shall be had, by or in the Name of any Executor or Administrator, in such Case an Administrator *de bonis non* may sue forth a *Scire facias*, and take Execution upon such Judgment.

Eng. Stat. 17. Car. 2. c. 8. Sect. 2.
Judgment obtained by an Executor.

V. *And be it further Enacted*, That no Procefs or Suit before any Justices of Assize, Goal Delivery, Oyer and Terminer, Justices of the Peace or other Commissioners, shall be discontinued by the making and publishing of any new Commission or Association, or by altering the Names of the Justices of Assize, Goal Delivery, Oyer and Terminer, Justices of Peace or other Commissioners, but such new Justices of Assize, Goal Delivery, and of the Peace and other Commissioners, may proceed as if the former Commissions, Justices or Commissioners, had remained and continued without Alteration.

Eng. Stat. 1. Rd. 6. c. 7. Sect. 6.
No Suit before Justices shall be discontinued by a new Commission.

At the GENERAL ASSEMBLY of the Province of Nova Scotia, begun and holden at Halifax, on the First Day of July, Anno Domini 1761, in the First Year of the Reign of Our Sovereign Lord GEORGE the Third, of Great Britain, France and Ireland, KING, Defender of the Faith, &c. and there continued by several Prorogations until the Twelfth Day of October 1764, in the Fourth Year of His said Majesty's Reign; being the Sixth Session of the Third General Assembly convened in the said Province.

C A P. I.

An ACT for Reformation of Jeofails and Mispleadings, and to prevent Arrests and Reversals of Judgments, and for the better Advancement of Justice.

Eng. Stat. 32. Hen. 8.
c. 30. Sect. 1.
After an Issue tried there shall be Judgment given notwithstanding any Mispleading, &c.

*E*t it Enacted by the Governor, Council, and Assembly, That if any Issue be tried by the Oath of Twelve or more indifferent Men for the Party Plaintiff or Demandant, or for the Party Tenant or Demandant, in any Courts of Record, the Justice or Justices, by whom Judgment thereof ought to be given, shall proceed and give Judgment in the same, any Mispleading, want of Colour, insufficient Pleading, or *Jesfail*, any Miscontinuance or Discontinuance or Misconveying of Process, misjoining of the Issue, want of Warrant of Attorney for the Party, against whom the same Issue shall happen to be tried, or any other Default or Negligence of any of the Parties, their Counsellors or Attornies, had or made to the contrary notwithstanding; and the said Judgment shall stand according to the said Verdict, without Reversal by Writ of Error or false Judgment; *Provided*, that in avoiding of Errors through the Negligence of Attornies, every Person named as Attorney in Actions and Suits pleaded to Issue, shall from Time to Time deliver, or cause to be delivered his or their sufficient and lawful Warrant of Attorney, to be entered of Record, for every of the said Actions or Suits wherein they be named Attornies, to the Clerk of the Court; That is to say, The Attorney for the Plaintiff or Demandant, shall file his Warrant of Attorney as aforesaid, the same Term he declares, and the Attorney for the Defendant or Tenant, shall file his Warrant the same Term he appears; upon Pain of forfeiting unto our Sovereign Lord the KING, the Sum of Five Pounds, for not delivering the said Warrant of Attorney; to be recovered by Action of Debt, Bill, Plaint or Information.

Eng. Stat. 32. Hen. 8.
c. 30. Sect. 2.
When an Attorney shall enter his Warrant in Court.

II. *And be it further Enacted*, That after Verdict as aforesaid, the Judgment thereupon shall not be stayed or reversed, for any Defect in Form in any Writ Original or Judicial, Count, Declaration, Bill, Plaint, Suit, or Demand, or any Variance in Form only between the Original or Bill, and the Declaration or Plaint, or for want of any Writ Original or Judicial, or for any imperfect or insufficient Return of any Sheriff or other Officer.

Eng. Stat. 18. Eliz.
c. 14. Sect. 1.
After Verdict, Judgment shall not be stayed &c. for want of Form &c.

III. *And be it further Enacted*, That after Verdict, Judgment thereupon shall not be stayed or reversed for want of an Averment of any Life or Lives, so as the said Person be proved to be alive, or for awarding the *Venire facias* to a wrong Officer, upon any insufficient Suggestion, or because the Visne is in some Part misawarded or sued out of more or fewer Places than it ought to be, so as some one Place be right

Eng. Stat. 21. Jac. 1.
c. 13. Sect. 2.
Divers *Jesfails* in Suits of Law prevented and reformed.

right named, or for misnaming any of the Jurors in Sirname or Addition in any of the Writs or Returns thereof, so as it be proved to be the same Man that was meant to be returned, or by Reason that there is no Return upon any of the said Writs, so as a Panel of the Names of Jurors be returned and annexed to the said Writ, or for that the Sheriffs or other Officers Name, having the Return thereof, is not set to the Return of any such Writ, so as it be proved that the said Writ was returned by such Officer, or by reason that the Plaintiff in any *Ejectione firmæ*, or in any Personal Action or Suit, being an Infant under the Age of One and Twenty Years, did appear by Attorney therein, and the Verdict passed for him.

IV. *And be it further Enacted*, That Judgment shall not be stayed or reversed after Verdict, for want of Pledges, or but one Pledge to prosecute, returned upon the Original Writ, or because the Name of the Sheriff is not returned on the Original Writ, or for want of entering Pledges upon any Bill or Declaration, or for not alledging the bringing into Court any Bond, Bill, Indenture, or other Deed mentioned in the Declaration or other Pleading, or for want of Allegation of bringing into Court any Letters Testamentary, or Letters of Administration, or for Omission of, *by Force and Arms*, and against the *Peace*, or for mistaking the Christian Name or Sirname of the Plaintiff or Defendant, Demandant or Tenant, Sum or Sums of Money, Day, Month or Year, by the Clerk in any Bill, Declaration or Pleading, where the right Name, Sirname, Sum, Day, Month or Year, in any Writ, Plaint, Roll or Record preceding, or in the same Roll or Record, where the Mistake is committed, is or are once truly and rightly alledged, whereunto the Plaintiff might have demurred, and shewn the same for Cause, nor for want of Averment of *This he is ready to verify*, or for *This he is ready to verify by Record*, or for not alledging as it appears by Record, or for that there is no right Venue, so as the Cause were tried by a Jury of the proper County or Place, where the Action is laid, nor for that the Increase of Costs after a Verdict in an Action, or upon a Non Suit in Replevin, are not entered to be at the Request of the Party for whom the Judgment is given, nor by Reason that the Costs in any Judgment whatsoever, are not entered to be by Consent of the Plaintiff, but that all such Omissions, Variances, Defects, and all other Matters of like Nature, not being against the Right of the Matter of the Suit, nor whereby the Issue or Trial are altered, shall be amended by the Justices or other Judges of the Courts where such Judgments are or shall be given, or whereunto the Record is or shall be removed by Writ of Error, or by Appeal in any Action, Real, Personal or Mixt, according to the Usage and Course of Proceedings in this Province.

V. *And be it further Enacted*, That where any Demurrer shall be joined, and entered in any Action or Suit in any Court of Record with-
in

Eng. Stat. 16 & 17.
Car. 2. c. 8. Sect. 1.

This Act supplies several Defects in 21. Jac. 1. c. 13. and adjudges many Points to be Form which were before construed to be Substance, and not aided by the former Statutes.

In what Cases Judgment, after Verdict, shall not be stayed for want of Form in Pleading.

Eng. Stat. 4. & 5.
Ann. c. 16. Sect. 1.
said to have been
penning by the Lord
Somers.
Judges shall give
Judgment on De-
murrer &c. without
regarding any De-
fect in Writs &c.
Vide Eng. Stat.
27. Eliz. c. 5. Sect. 1.

in this Province, the Judges shall proceed and give Judgment, according as the very Right of the Cause and Matter in Law shall appear unto them, without regarding any Imperfection, Omission, or Defect in any Writ, Return, Plaint, Declaration, or other Pleading, Process or Course of Proceeding whatsoever, except those only which the Party demurring shall specially and particularly set down and express together with his Demurrer as Causes of the same, although such Imperfection, Omission, or Defect, be Matter of Substance, so as sufficient Matter appear in the said Pleadings, upon which the Court may give Judgment, according to the very Right of the Cause, and therefore no Advantage or Exception shall be taken of, or for an immaterial Traverse, or of or for the Default of entering Pledges upon any Bill or Declaration, or of or for the Default of alledging the bringing into Court any Bond, Bill, Indenture or other Deed whatsoever mentioned in the Declaration or other Pleading, or of or for the Default of alledging the bringing into Court Letters Testamentary or Letters of Administration, or of or for the Omission of by Force and Arms, and against the Peace, or either of them; or of or for the want of Averment of *This be is ready to verify*, or of *This be is ready to verify by Record*, or of or for not alledging as it appears by the Record, (but the Court shall give Judgment according to the very Right of the Cause as aforesaid, without regarding any such Imperfections, Omissions and Defects, or any other Matter of the like Nature, except the same shall be specially and particularly set down and shewn for Cause of Demurrer.)

Exception.

Eng. Stat. 4. & 5.
Ann. c. 16. Sect. 2.
Judgment entered
upon Confession, &c.
not to be reversed
for any Imperfec-
tion &c.

VI. *And be it further Enacted*, That no Judgment entered upon Confession, *Nihil dicit*, or *Non sum infermatus*, in any Court of Record, shall be reversed, nor any Judgment upon any Writ of Inquiry of Damages executed thereon, be staid or reversed for or by Reason of any Imperfection, Omission, Defect, Matter or Thing whatsoever, which by force of this Act would have been aided and cured as *Jeofails*, in case a Verdict of Twelve Men had been given in the said Action or Suit, so as there be an Original Writ or Bill, and Warrants of Attorney duly filed as by this Act is directed.

Eng. Stat. 4. & 5.
Ann. c. 16. Sect. 24.
Act to extend to all
Suits for the King's
Debts, &c.

VII. *And be it further Enacted*, That this Act shall extend in all *Jeofails* as aforesaid to all Suits in any Court of Record, for Recovery of any Debt immediately owing, or any Revenue belonging to His Majesty, His Heirs or Successors.

Eng. Stat. 18. Eliz.
c. 14. Sect. 2.
21. Jac. 1. c. 13.
Sect. 3.

VIII. *Provided always, and be it Enacted by the Authority aforesaid*, That nothing in this Act before contained, shall extend to any Writ, Declaration or Suit of Appeal of Felony or Murder, or to any Indictment or Presentment of Treason, Felony, or Murder, or other Mat-
ter,

ter, or to any Procefs upon any of them; or to any Writ, Bill, Ac-
tion or Information upon any Penal Statute.

IX. *And be it further Enacted*, That no Dilatory Plea shall be re-
ceived in any Court of Record, unless the Party offering such Plea do,
by Affidavit, prove the Truth thereof, or shew some probable Matter
to the Court to induce them to believe that the Fact of such Dilatory
Plea is true.

16. & 17. Car. 2.
c. 8. Sect. 2.
4. & 5. Ann. c. 16.
Sect. 7.
To what this Act
shall not extend.

Eng. Stat 4. & 5.
Ann. c. 16 Sect. 11.
No Dilatory Plea to
be received unless
on Affidavit.

At the GENERAL ASSEMBLY of the Pro-
vince of *New Scotia*, begun and holden at
Halifax, on the *Twenty Eight Day of May*,
Anno Domini 1765, in the Fifth Year
of the Reign of Our Sovereign Lord
GEORGE the Third, of *Great Britain*,
France and Ireland, KING, Defender of
the Faith, &c. being the First Session of
the Fourth *General Assembly* convened in
the said Province.

C A P. I.

An ACT for the Choice of Town Officers and regu-
lating of Townships.

HEREAS the Method of nominating the respective Town Offi-
cers herein after mentioned by the Grand Jurors for the several
Counties, as directed by the Laws of this Province, is found in-
convenient; Be it Enacted by the Governor, Council, and As-
sembly

Grand Jury at the first General Quarter Sessions Annually to nominate, and the Court to appoint.

Surveyors of Lines and Bounds, and Overseers of the Poor.

Town Clerk.

Constables.

Fence Viewers, Clerk of the Market,

Pound Keepers,

Cullers and Surveyors of Fish,

Surveyors of Lumber,

Sealers of Leather,

Gaugers of Casks,

Hogreaves,

17. Geo. 3. Ch. 1.

sembly, That the Grand Juries for the several Counties in this Province, at the Court of *General Sessions of the Peace* for each County respectively, next ensuing the Publication of this Act, and thereafter annually at the First *Sessions* of the said Court, shall nominate out of every Township in the said County, Ten fit Persons, out of whom the said Court shall appoint Five to be Surveyors of Lines and Bounds of each respective Township, who are hereby impowered to survey examine, and ascertain the Lines and Bounds of their said respective Townships, agreeable to the several Grants thereof, and who shall also be Overseers of the Poor of the said Township; and at the same Time the said Grand Jury shall in like Manner nominate two Persons, one of whom the Court shall appoint to be Town Clerk of the said Town, who shall be sworn truly to enter and record all such Matters and Things, as shall relate to the said Township, and shall appertain to his Office; and shall also nominate Four or more Constables, of whom the Court shall appoint Two or more as they shall see convenient to be Constables in the said Township; and also shall nominate Four Fence Viewers, of whom the said Court shall appoint Two to be Fence Viewers in the said Township; and also shall nominate Two Clerks of the Market, of whom the said Court shall appoint One to be Clerk of the Market in said Township; and shall also nominate Four Pound Keepers, of whom the said Court shall appoint a sufficient Number in their Discretion to be Pound Keepers in the said Township; and shall also nominate Four or more Cullers and Surveyors of Fish, of whom the said Court shall appoint a sufficient number in their Discretion to be Cullers and Surveyors of Fish in the said Township: and shall also nominate Four Surveyors of Lumber and Cord Wood, of whom the said Court shall appoint two to be Surveyors of Lumber and Cord Wood in the said Township; and shall also nominate Two Sealers of Leather, of whom the said Court shall appoint one to be Sealer of Leather in the said Township; and shall also nominate Four Gaugers of Casks, of whom the said Court shall appoint Two to be Gaugers of Casks in the said Township; and shall also nominate Four Hogreaves, of whom the said Court shall appoint Two to be Hogreaves in the said Township. *And shall also nominate Six fit Persons out of which the Court shall appoint three to be Assessors of all such Rates and Taxes as are now payable, or which may hereafter be payable by any Act or Acts of the General Assembly of this Province, and Four Persons out of which the Court shall appoint Two to be Collectors of all Rates and Taxes in each Township and Four Persons, out of which the Court shall appoint Two to be Surveyors and Weighers of Hay in each Township;* Who shall respectively be sworn to the faithful Discharge of their Duty in Manner as is already prescribed by the Laws of this Province, and shall in every respect conform to the said Laws, and upon their, or any of their Refusal to accept, or being guilty

right named, or for misnaming any of the Jurors in Sirname or Addition in any of the Writs or Returns thereof, so as it be proved to be the same Man that was meant to be returned, or by Reason that there is no Return upon any of the said Writs, so as a Panel of the Names of Jurors be returned and annexed to the said Writ, or for that the Sheriffs or other Officers Name, having the Return thereof, is not set to the Return of any such Writ, so as it be proved that the said Writ was returned by such Officer, or by reason that the Plaintiff in any *Ejectione firmæ*, or in any Personal Action or Suit, being an Infant under the Age of One and Twenty Years, did appear by Attorney therein, and the Verdict passed for him.

IV. *And be it further Enacted*, That Judgment shall not be stayed or reversed after Verdict, for want of Pledges, or but one Pledge to prosecute, returned upon the Original Writ, or because the Name of the Sheriff is not returned on the Original Writ, or for want of entering Pledges upon any Bill or Declaration, or for not alledging the bringing into Court any Bond, Bill, Indenture, or other Deed mentioned in the Declaration or other Pleading, or for want of Allegation of bringing into Court any Letters Testamentary, or Letters of Administration, or for Omission of, *by Force and Arms*, and against the Peace, or for mistaking the Christian Name or Sirname of the Plaintiff or Defendant, Demandant or Tenant, Sum or Sums of Money, Day, Month or Year, by the Clerk in any Bill, Declaration or Pleading, where the right Name, Sirname, Sum, Day, Month or Year, in any Writ, Plaint, Roll or Record preceding, or in the same Roll or Record, where the Mistake is committed, is or are once truly and rightly alledged, whereunto the Plaintiff might have demurred, and shewn the same for Cause, nor for want of Averment of *This he is ready to verify*, or for *This he is ready to verify by Record*, or for not alledging *as it appears by Record*, or for that there is no right Venue, so as the Cause were tried by a Jury of the proper County or Place, where the Action is laid, nor for that the Increase of Costs after a Verdict in an Action, or upon a Non Suit in Replevin, are not entered to be at the Request of the Party for whom the Judgment is given, nor by Reason that the Costs in any Judgment whatsoever, are not entered to be by Consent of the Plaintiff, but that all such Omissions, Variances, Defects, and all other Matters of like Nature, not being against the Right of the Matter of the Suit, nor whereby the Issue or Trial are altered, shall be amended by the Justices or other Judges of the Courts where such Judgments are or shall be given, or whereunto the Record is or shall be removed by Writ of Error, or by Appeal in any Action, Real, Personal or Mixt, according to the Usage and Course of Proceedings in this Province.

*Eng. Stat. 16 & 17.
Car. 2. c. 8. Sect. 1.*

This Act supplies several Defects in 21. Jac 1. c. 13. and adjudges many Points to be Form which were before construed to be Substance, and not aided by the former Statutes.

In what Cases Judgment, after Verdict, shall not be stayed for want of Form in Pleading.

V. *And be it further Enacted*, That where any Demurrer shall be joined, and entered in any Action or Suit in any Court of Record with-
in

forfeit and pay the Sum of Forty Shillings each, to be recovered on Complaint before any Two of his Majesty's Justices for the County where such Complaint shall be made, and one Half of the Forfeiture shall be paid to the Person or Persons who shall complain and prosecute for the same, and the other Half to the Overseers of the Poor, for the Use of the Poor of such Towns from whence the Complaint was made; and whenever the Surveyors of any Township, which shall have had Notice as aforesaid, shall refuse or neglect to attend the said Business, the Surveyors who shall have given such Notice shall, and they are hereby impowered to proceed in running and making such Line, which shall be as effectual as if the Surveyors of both Townships had joined,

Proprietors of
Lands unfenced,

or Common Fields
once in Two Years,

on Six Days Notice,
to run the Lines and
keep up the Boun-
daries, or forfeit 20s.

Common Fields to
be ordered, im-
proved and fenced,
as shall be agreed
on by the major
Part of the Proprie-
tors.

Persons refusing to
fence their Propor-
tion, to pay double
the Cost for the
same, to be done by
the Fence Viewers.

V. *And be it further Enacted*, That each and every Proprietor of Lands laying unfenced, or in any Common Field, shall once in Two Years on Six Days Notice given him, his Agent, or Attorney, by the next Proprietor or Proprietors adjoining, run the Lines, make and keep up the Boundaries of such Lands or Common Field, by Stones or other sufficient Marks, and every Party so neglecting or refusing, shall forfeit the Sum of Twenty Shillings, one Half of which shall be paid to the Party complaining, and the other Half to the Overseers of the Poor for the Use of the Poor of said Township, and to be heard and determined before any One of his Majesty's Justices of the Peace within the same County; and the Proprietors of any Field held in Common, whether divided or undivided, shall, and they are hereby impowered to order, improve and fence, in such Way or Manner as shall be concluded and agreed upon by the major Part of the interested therein; the Voices to be collected and accounted according to their respective Interests; and if any Person shall refuse to make, keep up, support, and maintain his *quota* Part or Proportion of such Fence so agreed on to be made, and shall on Notice given him for that Purpose by any one of the Proprietors concerned with him in the said Common Field, neglect the same for the Space of Thirty Days, the Fence Viewer shall, on Application being made to him, make and set up the deficient Fence, or repair any Fence already made, if in his Judgment the same is insufficient, and the Person or Persons, that of Right ought to build and maintain the same, shall pay double the Costs and Charges, expended for the doing thereof, and in Case of Refusal such Fence Viewer may recover the same before the *Inferior Court of Common Pleas* or before One or Two Justices according to the Value thereof; and the said Fence Viewer, shall be allowed Three Shillings *per* Day for his own Trouble, and Time expended therein.

VI. And if any Person or Persons shall neglect or refuse to comply with any Regulation made by the Proprietors of any Common Field

as aforesaid, which Regulation shall be made annually, he or they shall forfeit and pay the Sum of Ten Shillings, for the Use of the Poor of the Town where such Common Field shall lie; to be recovered by the Oath of One credible Witness before any One of his Majesty's Justices of the Peace for the County wherein such Lands are, to be levied by Distress and Sale of the Offender's Goods and Chattels, and shall moreover make Satisfaction for all Damages that may have arisen by such Neglect or Refusal.

Persons neglecting to comply with Regulations made by Proprietors of Common Fields, forfeit 10s.

VI. *And Whereas many Inconveniencies have arisen for want of Cattle being branded or otherways marked, that run in Common, Be it Enacted,* That all and every Owner of any Horse or Horses, Neat Cattle, Sheep or Swine, shall brand or otherways mark such Horse or Horses, Neat Cattle, Sheep or Swine, in such Manner as that the same may be clearly known; and shall enter such Mark or Brand with the Town Clerk, in a Book to be kept by him for that Purpose, and the said Town Clerk shall receive for Recording the said Mark or Brand the Sum of Six Pence.

Cattle to be branded.

C A P. II.

An ACT to enable the Inhabitants in the several Townships in this Province, (*Halifax* excepted) to cause any absent Proprietor of Lands within the same to pay a Dividend or Proportion of any County or Town Charge to be assessed according to Law, and to bear their just Proportion in repairing *Highways, Roads, and Bridges* within the said Townships respectively.

HEREAS there are many Non resident Proprietors of Lands within this Province, whose Lands are enhanced in their Value by the Labour of those who are present, and the Burthen of the necessary County and Town Charges being heavy on the resident Proprietors; *Be it Enacted by the Governor, Council and Assembly,* That each and every Non resident Proprietor or Proprietors of Lands in any Township within this Province, (the Township of *Halifax* excepted) shall pay or cause to be paid, his, her, or their just dividend or Proportion of all County and Town Charges hereafter to be assessed in such County and Township, and upon failure thereof the same to be recovered as directed by the Laws empowering such Assessment, and each and every Non resident Proprietor or Proprietors of Lands in any Township, shall be obliged to do and perform his, her, or their Parts or Porportion of Labour

Preamble.

Non resident Proprietors to pay their Proportion of all County and Town Charges,

and for Labour on the Highways,

hour on the Highways; Roads, and Bridges, within their respective Townships, or pay for the same as delinquent Inhabitants are by Law directed.

on failure, one Justice may let out such Delinquent's Lands for Payment thereof.

II. *And be it also Enacted*, That if any Proprietor or Proprietors of Lands in any Townships as aforesaid shall be absent, and no Person appearing in their Behalf, on public Notice being given in the *Halifax Gazette*, to pay his, her, or their Dividend or Proportion of any Assessment made in virtue of any Law of this Province, and to labour on the Highways, Roads and Bridges as aforesaid, and not having any Goods and Chattles to answer his, her, or their Dividend or Proportion of any Charge made as aforesaid, it shall and may be lawful for any One of his Majesty's Justices of the Peace, who are hereby empowered, to let out any Part of such Delinquent's Lands, as may be sufficient to pay by the Produce of the same, any such Dividend, Proportion or Charge so due; and in Case the Lands of such Absentee, should not for the present, produce sufficient to pay the Quota of his, her, or their Proportion of such Assessment, that then the Lands of such Delinquent shall be held chargeable therewith.

Appeal to the General Sessions.

III. *Provided always*, That if any Proprietor or Proprietors of Lands, let out and held as aforesaid, shall think himself or herself aggrieved, by the Proceedings of any Justice of the Peace, in letting out his, her or their Lands as aforesaid, such Proprietor or Proprietors, by themselves or their Attornies, may complain to the Justices in their *General Sessions of the Peace* for said County, for Relief therein.

C A P. III.

An Act for the raising Money by Presentment on the several Counties in this Province, for the defraying certain County Charges therein mentioned.

Eng. Stat. 43. Eliz. c. 3. Grand Juries at the Court of Assize or General Sessions of the Peace, to present annually a proper Person to be County Treasurer, to be approved and sworn by the Court.

❖❖❖❖❖ *E it Enacted, by the Governor, Council, and Assembly*, That
❖ B ❖ from and after the Publication hereof, it shall and may
❖ ❖ be lawful for the several Grand Juries in each of the seve-
❖❖❖❖❖ ral Counties in this Province, either at the Court of *Assize*,
or *General Sessions of the Peace* held for such County, to present annu-
ally a proper and fit Person, one of the Freeholders of said County,
to be a Treasurer for said County for the Year ensuing, and such Per-
son being approved of by the Court, shall be sworn to the due Execu-
tion of his Office, and Invested with all the Powers and Trusts, as herein
after directed.

II. *And*

II. *And be it further Enacted*, That it shall and may be lawful for the several Grand Juries in each of the several Counties within this Province, either at the Court of *Affize* or *General Sessions of the Peace* held for such County, to make Presentment, upon proper Representations made thereon by three or more Freeholders of the said County, or of their own Knowledge, of all such Sum and Sums of Money or Expences that may be found to have arisen, or that may be absolutely necessary to be raised for the building or repairing a County Goal, or for the building or repairing a Court or Session House, erecting Stocks, Pillories, or Pounds, and providing Bolts and Shackles, as also for the conveying † of Persons accused of any Treason or Felony, to the County Goal, being Three Miles distance or upwards, so as the same do not exceed Six Pence per Mile; as likewise for the support of poor Criminals in Goal.

III. *And be it also further Enacted*, That all Money so raised by Presentment as aforesaid, and levied from off the Inhabitants of the several Counties, shall be paid into the Hands of the County Treasurer, and shall not be applied to any other Use than such for which the same was raised; and if any Person or Persons who shall be appointed in the said Presentment and Order thereon, to be the Director or Directors, Overseer or Overseers of the Work, or the Distributor or Distributors of the Money hereby raised, for which such Presentment was made, shall not at the next *General Affizes* or *General Sessions* of the County, or in a reasonable Time to be by them appointed, make appear in his or their Account or Accounts, with good Vouchers, that the Money so raised and received by him or them, shall have been expended pursuant to said Presentment to the Use of the County, he or they shall still be chargeable with the same; and every Person so accountable for any Public Money shall, when required by the Justices at their *General Sessions* or by the *Judges of Affize* at their *General Goal Delivery*, make up their Accounts on Oath, and if such Accountants shall neglect to make a fair and just Account of all such Public Money or shall upon such Accounts be found to have such Money or any Part thereof remaining in his or their Hands, such Accountants shall forthwith pay such Money into the Hands of such Persons, as shall by such Grand Jury and Justices of the Peace or Judges of *Affize*, be presented and ordered for the Use of such County where such Public Money shall be raised; and in Default thereof such Person or Persons so accountable, shall by the Justices at their said Sessions or Judges of *Affize* at their respective *Affizes* be committed to the Common Goal, in Execution, until such Accounts shall be made and Balance paid, or sufficient Sureties given for the same.

Eng. Stat. 11. & 12. Will. 3. c. 19. Sect. 1. directs Rates for Repair of Goals. Grand Juries to present what Sums are necessary to be raised for building & repairing a Goal &c.

† *Eng. Stat. 3. Jac. 1. c. 10. Sect. 1.*

Monies to be paid into the Treasurer's Hands, &c.

For the Use of the County.

No Presentment to be confirmed till the last Day of the Court's Sitting.

IV. *Provided always, and be it Enacted,* That no Presentment for the raising Money as aforesaid, shall be confirmed by the Judges of *Affize* or the Justices in *General Sessions*, until the last Day of the Sitting of the said Court of *Affize* or *General Sessions of the Peace*, and such Presentment so made shall be posted up in the Court House from the Time of its being made till the same is confirmed, to the End that all Persons concerned may have Notice thereof, and object against and traverse the same, if they see convenient.

Ten Pounds *per Ann.* to be allowed to the Treasurer for his Services.

V. *And be it further Enacted,* That it shall be lawful for the several Grand Juries in each County in this Province, at the *Affizes* and at the *General Sessions of the Peace* to make Presentment if they think fit, and for the Judges and Justices to confirm the same, for the raising any Sum not exceeding Ten Pounds *per Annum*, to be paid to the Treasurer of each County for his Services in that Station; and also that it shall and may be lawful for said Grand Juries to present Three or more good and sufficient Freeholders for every Township in said County, to be Assessors for said Township, who are to be approved of by the Court, and are to be sworn by the said Court, or before any One of His Majesty's Justices of the Peace, to the due and faithful Execution of the Office to which they are appointed, and that without Favour or Affection, Hatred or Malice, to the best of their Skill and Knowledge, and in Case any Person, who may be appointed an Assessor as aforesaid, and shall refuse to accept the said Office, another Person shall immediately be appointed in his stead by the Court, or by any Two of His Majesty's Justices of the Peace, and the Person so refusing shall forfeit the Sum of Five Pounds, to be recovered by Bill, Complaint, or Information in any of His Majesty's Courts of Record, or before any Two of His Majesty's Justices, and be paid to the Treasurer of the County, for the Use of the County wherein such Assessor was appointed.

Three Assessors to be appointed by the Grand Jury and sworn.

Persons refusing to accept, forfeit 40s. and another to be appointed.

Judges of *Affize* or Justices of *Sessions*, to determine each Town's Proportion.

VI. *And be it also further Enacted,* That the Judges of *Affize* or Justices in *General Sessions* for each County, shall agree and determine each respective Town's Proportion of the Sum so presented and confirmed by the Court; and the Sum so proportioned, shall be assessed on the Inhabitants in each Township, in the justest and most equal Manner they can devise, and the same shall be levied by the Constables of the said Townships respectively, by Warrant under the Hand and Seal of any Two of His Majesty's Justices of the Peace for the said County, and in Case of Refusal, by Distress and Sale of the Goods and Chattels of the Person refusing or neglecting to pay the Sums assessed on them as aforesaid, with the Charge of such Distress and Sale, returning the Overplus if any; and in Case any Person or Persons shall think themselves aggrieved by such Assessment or Levying thereof, they shall be at Liberty to appeal to the next *General Sessions* held for the County, who are finally to determine the same; and the Money, when so levied,

To be levied by Warrant from Two Justices.

Persons aggrieved may appeal to the next *Sessions*.

vied, shall be paid into the Hands of the County Treasurer, who is to pay the same to the Persons, as directed in the Presentment.

VII. *And be it Enacted*, That the Treasurer in each County shall make up his Accounts upon Oath of all his Receipts and Payments, at every Court of *Affize* or *General Sessions* held for said County, to be approved or disapproved by said Courts, and the same shall be filed in the Office of the Clerk of the Peace for said County; and no Treasurer or other Person or Persons concerned, is to compound for any Money to be raised on said County, nor make any Deduction whatsoever for any Sum he or they shall pay to any Person or Persons, but such as he or they shall account for by proper Vouchers; and if any Treasurer shall offend herein, or neglect to make up his Account as aforesaid, he shall for ever be incapable to serve as Treasurer again, and be committed to Goal without Bail or Main Prize, until he fairly accounts with the Court of *Affize* or *General Sessions of the Peace* held for such Town or County, and from the said Court to receive a Certificate of his having passed his Accounts to their Approbation.

VIII. 8. *Geo. 3. Ch. 6. Be it Enacted by the Lieutenant Governor, Council, and Assembly*, That on the Neglect or Refusal of such Grand Juries to make Presentment as is directed in and by the aforesaid Act, the Judges of *Affize*, or the Justices of the Peace in their *General Sessions*, shall, and they are hereby impowered to amerce the County in such Sum or Sums as it shall appear to them (upon due Proof made before them) to be necessary for defraying the Expences which have arisen, or shall be judged by them necessary to be raised, for the Use of the County; which said Sum or Sums shall be equally assessed on the Inhabitants of said County, according to their Ability, and paid into the Hands of the Treasurer of the County, for the Uses aforesaid; and the Judges or Justices aforesaid are hereby authorized and impowered to appoint three Assessors in each Township, for the assessing the Money aforesaid.

IX. *Sec. 2. Be it Enacted*, That it shall and may be lawful for the respective Assessors, already appointed or to be appointed for any Town, to nominate and appoint one or more Collectors, to collect and receive all Sums of Money as have been or may be assessed pursuant to this or the said Act, and the said Collector or Collectors, when he or they shall have so collected and received the said Sums of Money, shall pay the same into the Hands of the County Treasurer, deducting for his or their Trouble in collecting the same, one Shilling in the Pound.

X. *Sec. 3. And be it also Enacted*, That if any Person or Persons appointed Collectors as aforesaid, shall refuse or neglect to serve as such, each and every such Person so neglecting or refusing, shall forfeit and pay the Sum of Five Pounds, to be levied, in default of Payment, by

Treasurer to make up his Accounts at every Court of *Affize* or *General Sessions*.

Upon the Neglect of the Grand Juries to make Presentment, the Judges of *Affize* or the Justices in *General Sessions*, shall amerce the County in such Sums as may be necessary to defray the County Charges,

to be assessed on the Inhabitants by three Assessors to be appointed in each Township.

The Assessors shall appoint Collectors

Their Duty,

and Allowance,

Persons refusing to serve as Collectors, forfeit £5.

Warrant of Distress and Sale of the Goods of such Person or Persons, under the Hand and Seal of any Two of His Majesty's Justices of the Peace for the County wherein such Person or Persons shall or may be appointed, returning the Overplus, if any be, to the Owner or Owners of the Goods so to be distrained and sold as aforesaid; and such Fine shall be paid to the Treasurer of such County, for the Use of the said County.

for the Use of the County.

The Grand Juries in each County, at the Court of Assize, or General Sessions of the Peace, shall make Presentment of such Sums as are necessary for the building or repairing Bridges.

XI. 9. Geo. 3. Ch. 1. *Be it Enacted by the Governor, Council, and Assembly,* That from and after the Publication of this Act, it shall and may be lawful for the several Grand Juries in each of the several Counties within this Province, either at the Court of Assize, or General Sessions of the Peace, held for such County, to make Presentment, upon proper Representations made thereon by three or more Freeholders of the said County, or of their own Knowledge, of all such Sum and Sums of Money, or Expences that may have arisen, or that may be necessary to be raised, for the building or repairing Bridges within the same County.

In what manner such Sums shall be assessed, &c.

XII. Sec. 2. *And be it further Enacted,* That the Sum or Sums of Money so presented shall be assessed, raised, levied, proportioned, paid in, and applied in manner as is prescribed by this Act.

Upon the Neglect of Grand Juries to make presentment, the Judges of Assize in General Sessions, shall amerce the country in the Sums necessary to be raised

XIII. Sec. 3. *And be it also further Enacted,* That on the Neglect of such Grand Juries to make such Presentment, the Judges of Assize, or Justices of the Peace in General Sessions, shall amerce the County in such Sum as shall appear to them to be necessary for the purposes aforesaid; and shall appoint three Assessors in manner as is directed in and by the said last recited Act.

C A P. IV.

An ACT for regulating Servants.

Preamble.

Vide Statute enacted in Ireland, 2. Geo. 2. c. 17. Sect. 3, 4, 5, & 7. in the same Effect, with the 1st. & 2d. Sections of this Act.

Servants hired for any Term not less than Six Months, to have a Certificate from their Master or Mistress, when discharged;

HEREAS great Damage and inconveniencies have arisen, and daily do arise by Apprentices and bound and hired Servants, deserting and leaving their Service without a legal Discharge; for Prevention whereof, *Be it Enacted by the Governor, Council and Assembly,* That from and after the Publication hereof, all Servants bound by Indenture, or hired Servants for any Time not less than Six Months, at the Expiration of the Term for which they were bound or hired to serve, shall have from their Master or Mistress a Certificate or Discharge of such Servants having served his or her Time, which shall be a sufficient Warrant for any

any Person to entertain or take such Servant into his or her Service, and the Person hiring such Servant shall take his or her Certificate or Discharge, and keep it until the Time, then contracted for, be expired; and if any Person shall knowingly take into his or her Service, or knowingly harbour or entertain, any Person who has been in any former Service, without such Certificate or Discharge, such Person being thereof convicted at the *General Sessions of the Peace*, held for the County or Place where such Offence shall be committed, shall forfeit Ten Pounds; to be levied by Distress and Sale of the Offender's Goods and Chattles, by Warrant from such *General Sessions*; one Moiety of which Forfeiture shall be to the Poor of the Township where the Offender resides, and the other Moiety to the Informer who shall discover and prosecute the same.

II. *Provided always*, That in Case any Person shall refuse to give his or her Servant a Certificate or Discharge as aforesaid, such Servant may apply to some neighbouring Justice of the Peace of the County wherein such Master or Mistress inhabits, who shall give Notice to the Master or Mistress of such Servant, and require from them respectively the Reason why such Servant is refused such Discharge and Certificate of his or her Service; and in Case no Reward be paid to such Notice, within Five Days, or that the Justice shall sooner, by a Reply to such Notice, find that the Cause of the Refusal of such Discharge or Certificate was not sufficient, the said Justice is required to give a Certificate thereof, or of such Reasons as the Master or Mistress gave for refusing such Discharge or Certificate, that such Person who is about to hire such Servant, may, be apprized of such Servant's Behaviour, and judged thereof before he or she hires such Servant, for which Certificate no Fee shall be paid; and the said Certificate shall be as good as if the same had been given by such Master or Mistress; and any Servant who shall be convicted of counterfeiting or producing a counterfeited Certificate, under the Hand of any Master or Mistress, or Justice of the Peace, by the Oath of One or more Witnesses, or by such Servant's own Confession, before Two of His Majesty's Justices of the Peace, shall be publickly whipped at the Discretion of such Justice.

III. *And be it further Enacted*, That all bound or hired Servants as aforesaid, who shall desert or absent themselves from their Master or Mistress's Service, shall be liable to make Satisfaction by Service, after the Time by Indenture or Agreement is expired, double their Time of Service so neglected, and if the Time of their Desertion or Absence was at Seed Time or Harvest, or during the Fishing Season, and the Charge of recovering them extraordinary, the Court of *General Sessions of the Peace*, before whom the Complaint shall be made, shall adjudge a longer Time of Service proportionable to the Damage the Master shall make appear he hath sustained.

Any Person harbouring or entertaining any Servant without such Certificate, to forfeit £10.

If any Master refuse to give his Certificate to his Servant upon his Discharge, he may apply to a Justice of the Peace, who shall inquire into the Circumstances.

Any Servant counterfeiting any Certificate, to be publickly Whipt.

Servants who shall desert or abscond, to make Satisfaction by serving double the Time, on the Order of the Sessions.

Complaint to be
made to a Jus-
tice of the Peace.

IV. *And Whereas the adjudging the Time such bound or hired Servant should serve, is often referred until the Time by Indenture or Agreement is expired, when the Measure of such further Service may be rendered difficult to ascertain; Be it Enacted,* That the Master or Mistress of any Servant so deserting or absenting themselves, that intends to take the Benefit of this Act, shall so soon as he or she hath recovered such Servant, carry him or her to some One of His Majesty's Justices of the Peace, and there declare and prove the Time of his or her Absence, and the Charge he hath been at in his or her Recovery, which Justice thereupon shall grant his Certificate thereof, and the Court shall and may, on such Certificate, pass Judgment for the Time such Servants, so deserting or absenting themselves, shall serve for his or her Absence.

Complaints of Ser-
vants for cruel and
bad Usage, to be
heard and deter-
mined by Two
Justices.

V. *And be it also Enacted,* That every Master or Mistress shall provide for his or her Servant according to the Tenor of their Agreement, and any bound or hired Servant as aforesaid, having just Cause of Complaint against his or her Master or Mistress for cruel and bad Usage, may and shall, on Application to Two of His Majesty's Justices of the Peace, be heard concerning the same; *Provided* such Complaint be made within a reasonable Time, not exceeding Ten Days after the Cause given, unless such Servant is prevented by his or her Master or Mistress or by Sickness; and if the said Justices shall find by sufficient Proof, that the said Servant's Cause of Complaint is well founded, the said Justices are hereby required to make an Order for the Relief of such Servant by discharging him or her from their Service, or otherwise as they may see fit, and if either Party shall not be satisfied with the Order of the said Two Justices, they may appeal to the next Court of *General Sessions of the Peace*, where the Matter shall be finally determined.

Appeal to the Ses-
sions.

Masters of Vessels
not to harbour, &c.
any bound or hired
Servant,

on Penalty of £10.

VI. *And be it also further Enacted,* That no Master of any private Ship or Vessel of War, or Master of any Merchant Ship or Vessel, coming into, tarrying or abiding in, or going forth from any Port, Harbour, or Place within this Province, shall receive, harbour, entertain, conceal or secure on board such Ship or Vessel, or suffer to be there harboured or detained, any bound or hired Servant as aforesaid, knowing them to be such, without Licence or Consent of his or her Master or Mistress in Writing, under his or her Hand, first had and obtained, on Pain of forfeiting Ten Pounds for every such Offence; which Forfeiture shall be applied and disposed of, as is directed in and by the first Clause of this Act, and shall be recovered by Bill, Plaint, or Information in any of His Majesty's Courts of Record in this Province.

Indentures of Ser-
vants hired in Great
Britain, &c. to be
examined by a Jus-
tice before they are
assigned.

VII. *And Whereas it often happens, that indented Apprentices or Servants are contracted with in Great Britain, Ireland, or other of His Majesty's Dominions, and imported into this Province, and there assigned over to the*
Inhabitants

Inhabitants thereof, without the previous Knowledge or Consent of such Apprentice or Servant; Be it therefore Enacted, That before any Inhabitant shall accept of the Assignment of any such Indenture, he shall, with the Parties, go before some One or more of His Majesty's Justices of the Peace, who shall examine whether the Indenture proposed to be assigned, be made and executed agreeable to Law, and whether the Apprentice or Servant has any legal Objection to the Assignment thereof, and to determine the Validity of such Objections; a Certificate of which Judgment shall be recorded by said Justice or Justices.

VIII. *And be it further Enacted, That if any Servant shall engage and contract himself with any Person or Persons, carrying on the Fishery, in the Capacity of a Salter, Splitter, or Shoresman, and shall upon Trial be found incapable, and unqualified to discharge the Duty of the Station, for which he shall have contracted himself, such Servant, upon due Proof of his Incapacity before any One of His Majesty's Justices of the Peace, shall forfeit and lose all Wages, due to him for his Service in such Employment, whereof he shall be so found incapable.*

Persons engaging in the Fishery as a Salter, &c. and not capable of his Duty, to forfeit his Wages.

At the GENERAL ASSEMBLY of the Province of *Nova Scotia*, begun and holden at *Halifax*, on the *Twenty Eighth Day of May, Anno Domini 1765*, in the *Fifth Year* of the Reign of Our Sovereign Lord GEORGE the Third, of *Great Britain, France, and Ireland*, KING, Defender of the Faith, &c. and there continued by several Prorogations until the Third Day of *June, 1766*, in the Sixth Year of His said Majesty's Reign; being the Second Session of the *Fourth General Assembly* convened in the said Province.

C A P. I.

An ACT for the more effectual Recovery of His Majesty's Duties in the Islands of *Cape Breton*, and Island adjacent.

Preamble.

W *HEREAS* His Majesty by his Royal Proclamation, given at St. James's the Seventh Day of October, One Thousand Seven Hundred and Sixty Three, in the Third Year of His Reign, has thought fit to annex the Islands of *Cape Breton* or *Ile Royal*, with the lesser Islands adjacent thereto, to the Government of *Nova Scotia*: And Whereas some Doubts have arisen, whether the Laws of this Province, antecedent to the said Proclamation, are in force there; and as sundry Persons have since refused to pay His Majesty's Duties: In Order therefore to remedy the same; It is hereby declared and Enacted by the Commander in Chief, the Council, and Assembly, That by virtue of His Majesty's Royal Proclamation, the said Islands of *Cape Breton* or *Ile Royal*, with the lesser Islands adjacent, were, and shall accordingly be adjudged to have been and be under the Government, Authority, and Jurisdiction of this His Majesty's Province, and that the Inhabitants thereof were and are subject to all the Laws of the same.

Islands of *Cape Breton*, &c. adjudged to be under the Government, &c. of this Province and the Inhabitants subject to the Laws of the same.

Collectors of Impost and Excise impowered to sue for and recover any Duties, &c. in any Court of Record.

II. And be it further Enacted, That the Collectors of Impost and Excise Duties, or any other Officer appointed to receive His Majesty's Duties there, shall be and are impowered to prosecute, sue for, and recover, in any of His Majesty's Courts of Record within this Province, any Duties, Customs, Excise, Rents, or Arrears of Duties, Customs, Excise or Rents, or any Debts or other Demands whatsoever, due to the Crown from Persons residing in said Territories; and such Courts in which such Causes are commenced, are hereby authorized to hear and determine the same, and to award Execution accordingly.

C A P. II.

An ACT against Foretallers and Regrators.

B *E* it Enacted by the Lieutenant Governor Council and Assembly, That from and after the Publication hereof, whatsoever Person or Persons shall buy or cause to be bought, any Victuals of any Kind whatsoever, coming by Land or Water towards any Market or Fair already established, or that may hereafter be established in this Province, to be sold in the same, (except at the Distance of Ten Miles at least from the Place where such Market or Fair is to be held

Who shall be deemed a Foretaller.

or kept) or shall make any Bargain, Contract, or Promise, for the having or buying the same or any Part thereof, or shall make any Motion by Word, Letter, Message, or otherwise, to any Person or Persons, for the enhancing the Price or dearer selling any Kind of Victuals or Provision for the Use of Man, comming by Land or Water towards any Market or Fair as aforesaid, shall be deemed and adjudged a Foretaller.

II. *And be it further Enacted*, That whatsoever Person or Persons shall by any Means, regrate, obtain or get into his or their Hands or Possession, in any Fair or Market, any Corn, Hay, Fish, Sheep, Lambs, Calves, Beef, Swine, Piggs, Geese, Capons, Hens, Chickens, Pidgeons, Hares, or other Dead Victuals whatsoever, that shall be brought to any Fair or Market whatsoever within this Province, to be sold, and do sell the same again in any Fair or Market holden or kept in the same Place, within One Month after purchasing or receiving the same, shall be accepted, reputed, and taken for a Reqrator or Reqrators.

III. *And be it also further Enacted*, That any Person or Persons who shall be guilty of forestalling or regrating, contrary to the Intent and Meaning of this Act, and shall be duly convicted in any of His Majesty's Courts of *General Sessions of the Peace* for the County where the Offence is committed, shall be fined at the Discretion of said Court, in any Sum not exceeding Ten Pounds, and for Non Payment of his or their Fine, to suffer Imprisonment at the Discretion of the Court, not exceeding Two Months for each and every Offence; and that one Moiety of the said Fine and Forfeiture, be for the Use of the Poor of the Town where the Offence has been committed, and the other Moiety to him or them who shall sue for the same.

Who shall be deemed a Reqrator.

Persons guilty of Forestalling or Reqrating to be fined not exceeding £10.

or to suffer Two Months Imprisonment.

C A P. III.

An A C T concerning Schools and Schoolmasters.

Be it Enacted by the Commander-in-Chief, Council, and Assembly, That no Person hereafter shall set up or keep a Grammar School within this Province, till he shall have first been examined by the Minister of such Town wherein he proposes to keep such Grammar School, as to the Qualifications for the Instruction of Children in such Schools; and where no Minister shall be settled, such Examination shall be made by two Justices of the Peace for the County, together with a Certificate from at least Six of the Inhabitants of such Town, of the Morals and good Conduct of such Schoolmaster, which shall be transmitted to the Governor, Lieutenant

Eng. Stat. 1. Jac. 1. c. 4. Sect. 9.
No Person to set up a School until he shall be examined by the Minister, &c. of the Town, as to his Qualifications for the Instruction of Children, to be certified to the Governor, &c. in order for his obtaining a Licence.

Gover-

Governor, or Commander in Chief for the Time being, for obtaining a Licence as by His Majesty's Royal Instruction is directed; and that no Person shall set up or keep a School for the Instruction of Youth in Reading, Writing, or Arithmetic, within the Township of *Halifax*, without such Examination, Certificate and Licence, or in any other Manner than is before directed; and every such Schoolmaster who shall set up or keep a School contrary to this Act shall, for every Offence, forfeit the Sum of Three Pounds, upon Conviction before Two Justices of the Peace of the County where such Person shall so offend, to be levied by Warrant of Distress, and applied for the Use of the School of the Town where such Offence shall be committed.

Any Person setting up a School without Licence, to forfeit £3. for every Offence.

Eng. Stat. 11 & 12. Will. 3. c. 4. Schoolmasters to take the Oaths.

Eng. Stat. 13. Will. 3. c. 4. Brit. Stat. 1. Geo. 5. c. 13. Sect. 1. Any Popish Recusant who shall set up a School, shall forfeit £10. and suffer three Months Imprisonment.

400 Acres of Land in each Township to be vested in Trustees for the use of Schools.

II. *Provided*, That no Person shall presume to enter upon the said Office of Schoolmaster, until he shall have taken the Oaths appointed to be taken instead of the Oaths of Allegiance and Supremacy, and subscribed the Declaration openly in some one of His Majesty's Courts, or as shall be directed by the Governor, Lieutenant Governor, or Commander in Chief for the Time being. And if any Popish Recusant, Papist or Person professing the Popish Religion, shall be so presumptuous as to set up any School within this Province, and be detected therein, such Offender shall for every such Offence suffer Three Months Imprisonment without Bail or Mainprize, and shall pay a Fine to the King of Ten Pounds; and if any One shall refuse to take the said Oaths and subscribe the Declaration, he shall be deemed and taken to be a Popish Recusant for the Purposes so before mentioned.

III. *And Whereas His Majesty has been pleased to order that Four Hundred Acres of Land in each Township, shall be granted to and for the Use and Support of Schools, Be it Enacted*, That the said Quantity of Lands shall be vested in Trustees for the said Purpose, and such Trustees shall be, and are hereby enabled to sue and defend for and on behalf of such Schools, and to improve all such Lands as shall be most for the Advantage and Benefit thereof.

At the GENERAL ASSEMBLY of the Province of *Nova Scotia*, begun and holden at *Halifax*, on the *Twenty Eighth Day of May*, Anno Domini 1765, in the Fifth Year of the Reign of Our Sovereign Lord GEORGE the Third, of *Great Britain, France and Ireland*, KING, Defender of the Faith, &c. and there continued by several Prorogations until the *Twenty Third Day of October*, 1766, in the Sixth Year of His said Majesty's Reign; being the Third Session of the Fourth *General Assembly* convened in the said Province.

C A P. I.

An ACT to prevent the Cutting or Breaking down the Bank of any River, Seabank, or Dykes.

WHEREAS there are large Tracts of Marsh Lands within this Province dyked in, great Part of which are, at this Time, under actual Improvement, from which great Advantages must arise; and as the dyking and draining those Lands are attended with a very great Expence, which Expence and Advantages may be lost, to the Ruin of many industrious Persons, by wicked and evil minded Persons cutting or destroying said Dykes, or the Piles or Pickets which are drove into the said Marshes, their Banks or Dykes; For Remedy whereof, Be it Enacted by the Lieutenant Governor, Council, and Assembly, That if any Person or Persons, from and after the Publication of this Act, shall unlawfully and maliciously break down, or cut down the Bank or Banks of any River, or any Seabank or Dykes, whereby any Lands shall be overflowed or damaged, every Person so offending, being thereof lawfully convicted, shall be adjudged guilty of Felony, and shall suffer Death as in Cases of Felony, without Benefit of Clergy.

II. And be it further Enacted, That if any Person or Persons shall, at any Time or Times hereafter, unlawfully cut off, draw up or remove and carry away, any Piles or other Materials which are, or at any Time hereafter shall be driven into the Ground, and used for the

Preamble.

Brit Stat. 6. Geo. 2. c. 37. Sect. 5.
Unlawfully breaking down the Bank of any River, &c

Felony without Clergy.

Any Person cutting off, drawing up, or removing and

carrying away, any Piles or Materials used for securing any Marsh Lands, Sea Walls, &c. and convicted thereof, before two Justices of the Peace,

shall forfeit £20.

One Half to the Informer, the other Half to the Poor.

Or suffer Six Months Imprisonment at hard Labour.

securing any Marsh Lands or Sea Walls, Banks, or Dykes, in order to prevent the Lands lying within the same from being overflowed and damaged, it shall and may be lawful to and for any Two or more of His Majesty's Justices of the Peace, residing near the Place where the said Offence or Offences shall be committed, and such Justices are hereby respectively authorized and required, upon Complaint or Information upon Oath of such Offence, to summon the Party or Parties so complained of, or to issue their Warrant or Warrants to apprehend and bring before them, the Person or Persons so accused, complained of, or suspected, and upon his, her, or their Appearance, or neglect to appear, to proceed to examine the Matter of Fact with which he, she, or they are charged, and upon due Proof thereof made, either by Confession of the Party or Parties so accused, or upon the Oath or Oaths of One or more credible Witnesses or Witnessesses, to determine the same, and to convict the Offender or Offenders; and every Person offending herein, and being thereof convicted as aforesaid, shall forfeit and pay the Sum of Twenty Pounds; one Moiety thereof to the Informer, and the other Moiety to the Overseers of, and for the Use of, the Poor of the Township or Place wherein such Offence shall be committed; the same to be levied by Distress and Sale of the Offender's Goods and Chattels, together with the Charges of such Distress and Sale, rendering the Overplus (if any be) to the Owner or Owners thereof; and for Want of sufficient Distress, the said Justices are hereby required to commit the Person or Persons convicted as aforesaid, to the House of Correction or Common Goal of the County, Town or Place, where the Offence shall be committed, there to remain and be kept at hard Labour for the Space of Six Months.

C A P. II.

An ACT to prevent Trespasses upon Crown Lands.

Preamble.

***** HER E A S sundry evil minded Persons have presumed, not
 * only to take possession of ungranted Lands in this Province,
 * W * but also, without Leave from Government, to encourage ig-
 * norant Persons to settle on such Lands, without obtaining
 ***** any Grant thereof; which Practices are highly offensive to the Honor
 and Dignity of the Crown, Be it therefore Enacted, by the Governor,
 Council and Assembly, That any Persons convicted in manner here-
 after mentioned, either of Possessing themselves of any ungranted
 Lands in this Province, or that shall presume to place thereon any
 Inhabitants, or occupy such Lands in any manner whatever, with-
 out Leave in Writing first obtained for that Purpose, from the Go-
 vernor, Lieutenant Governor, or Commander in Chief for the Time
 being, may and shall be prosecuted for the same, by Bill, Plaint, or
 Info-

Any Persons possess-
 ing themselves of,
 or occupying &c.
 any ungranted
 Lands, without
 leave in Writing
 from the Governour
 &c. shall forfeit
 £50.

Information, in any of his Majesty's Courts of Record in this Province, and upon due Conviction thereof by the Oath of one credible Witness, shall be adjudged to forfeit and pay the Sum of Fifty Pounds.

C A P. III.

An ACT for regulating the Times and Places for holding the several Courts of Justice therein named.

***** *E it Enacted, by the Governor, Council and Assembly, That*
 B ***** the *Supreme Court of Judicature, Court of Aijze and General*
 ***** Goal delivery shall be held annually at *Halifax* for the
 ***** County of *Halifax*, on the First Tuesday of *April*, Second
 Tuesday of *July*, and Second Tuesday of *October*; at *Annapolis*, for the
 County of *Annapolis* on the Fourth Tuesday of *May*, and Third Tues-
 day of *September*; at *Horton* for the County of *Kings County* on the
 Third Tuesday of *May* and Fourth Tuesday of *September*; at *Cumber-*
land for the County of *Cumberland* on the Tuesday of *August*;
 and at *Windfor* for the County of *Hants* the spring circuit on the
 Tuesday after the Sitting at *Annapolis* and the Autumn Circuit, on
 the Monday after the Sitting at *Horton*.

II. *And be it further Enacted, That the Inferior Court of Common pleas,*
 shall be held at *Halifax* annually, for the County of *Halifax*, on
 the Second Tuesdays of *March* and *September*; at *Annapolis* for the
 County of *Annapolis* on the First Tuesday of *April* and *November*;
 at *Lunenburg* for the County of *Lunenburg* on the Second Tuesdays
 of *April* and *October*; at *Horton* for the County of *King's County* on
 the First Tuesdays of *June* and *October*; at *Liverpool* for the County
 of *Queen's County*, on the Second Tuesdays of *April* and *November*;
 at *Yarmouth* on the First Tuesday of *April* and last Tuesday of *Octo-*
ber; at *Cumberland* for the County of *Cumberland* on the last Tuesdays
 of *June* and *October*; and at *Windfor* for the County of *Hants* on the
 last Tuesdays of *April* and *October*.

III. *And be it further Enacted, That the General Sessions of the Peace*
 shall be held at *Halifax* for the County of *Halifax*, on the First Tues-
 days of *March*, *June*, *September* and *December*; at *Annapolis* for the
 County of *Annapolis* on the First Tuesdays of *April* and *November*;
 at *Lunenburg* for the County of *Lunenburg*, on the Second Tuesdays of
April and *October*; at *Horton* for *King's County* on the First Tuesdays
 of *June* and *October*; at *Liverpool* for *Queen's County*, on the Second
 Tuesdays of *April* and *November*; at *Barrington*, on the First Tuesday
 of *November*; at *Yarmouth* on the First Tuesday of *April*; at *Cum-*
berland

SUPREME COURTS.
 Halifax. 20. Geo. 3.
 C. 1.

Annapolis. } 19.
 Horton. } Geo. 3.
 C. 4.

Cumberland.

Windfor. 21. Geo.
 3. C. 6.

COURTS of COMMON PLEAS.

Halifax.
 Annapolis. 11. Geo.
 3. C. 4.

Lunenburg:
 7. Geo. 3. C. 5.

Horton. 12. Geo.
 3. C. 1.

Liverpool. 10. Geo.
 3. C. 7.

Yarmouth. 16. Geo.

3. C. 5.

Cumberland. 15.
 Geo. 3. C. 9.

Windfor.

GENERAL SESSIONS of the PEACE.

Halifax. 20. Geo.
 3. C. 1.

Annapolis. 11. Geo.

3. C. 4.

Lunenburg. 7. Geo.

3. C. 5.

Horton. 12. Geo.

3. C. 1.

Liverpool. 11. Geo.

3. C. 7.

Barrington. } 6.
 Geo. 3.

Yarmouth. } C. 3.

Cumberland. 15.
Geo. 3. Ch. 9.
 Onslow. 8. *Geo.*
 7. *Ch. 3.*
 Warrington. 12.
Geo. 3. Ch. 2.
 Windsor. 21. *Geo.*
 5. *Ch. 6.*

berland for the County of *Cumberland*, on the last Tuesdays of June and October; at *Onslow* for the Towns of *Truro*, *Onslow*, and *Londondery*, on the First Tuesdays of February and August; at *Warrington* on the Island of *Campobello* for the County of *Sunbury*, on the First Tuesdays of June and October; and at *Windsor* for the County of *Hants*, on the last Tuesdays of April and October annually.

15. *Geo. 3. Ch. 6.*
 any two Judges to
 be competent to
 hold a Court.

IV. *And be it further Enacted*, That any two of the Judges of the Supreme Court shall be sufficient for holding the same, and transacting the business thereof, at all, any, and every of the times and places hereafter mentioned, and the legal Proceedings then and there had, shall be to all Intents and Purposes as good and effectual, as if all the Judges of the said Court were present.

Times of Sittings
 of Supreme Court
 limited.

V. *And be it also Enacted*, That the time of Sitting of the said Supreme Court in each of the Terms for holding the same, shall be limited, *that is to say*, at *Halifax* for Fourteen Days from the Day of opening of the Court, unless in Cases of unavoidable Necessity, or that the Multiplicity of Business at either of the said Terms should require it, in which cases the Judges may continue the Same for a Time not exceeding Six Days longer, and that in each of the other Counties the said Court shall not sit longer than Five Days, from the Day of the opening of each of the said Courts.

20. *Geo. 3. Ch. 1.*
 Executions issued
 at Halifax Inferior
 Court of Common
 Pleas returnable in
 60 Days.

VI. *And be it further Enacted*, That all Executions issued upon Judgments, which shall be given at the *Supreme Court* at its Sitting, in the Month of October at *Halifax*, and upon Judgments given at the Inferior Court of *Common Pleas* at its Sittings in the Months of March and September at *Halifax*, shall be returnable in Sixty Days, from the Day of issuing such Execution.

At the GENERAL ASSEMBLY of the Province of *Nova Scotia*, begun and holden at *Halifax*, on the *Twenty Eighth Day of May*, Anno Domini 1765, in the *Fifth Year* of the Reign of Our Sovereign Lord **GEORGE** the Third, of *Great Britain, France, and Ireland*, KING, Defender of the Faith, &c. and there continued by several Prorogations until the *Seventeenth Day of October*, 1767, in the *Seventh Year* of His said Majesty's Reign; being the *Fifth Session* of the *Fourth General Assembly* convened in the said Province.

C A P. I.

An ACT for Partition of Lands in Coparcenary, Jointenancy, and Tenancy in Common, and thereby for the more effectual collecting His Majesty's Quit Rents in the Colony of *Nova Scotia*.

HEREAS for the more speedy Settlement of the Province; it became necessary to erect Townships in divers Parts of the same, and for inducing Persons to remove into the Province and become Settlers and Inhabitants of the said Townships, it was found requisite by Grants to the several Petitioners to convey, previous to their Arrival in the Province, certain Shares or Rights in the respective Townships, and inasmuch as the said Rights could not, without greatly regarding the Progress of the Settlements, be surveyed and set out to each respective Grantee by Metes and Bounds in Severalty, it was judged expedient to convey the Lands in the said Townships to the Persons named in the respective Patents as Jointenants or Tenants in Common. And Whereas many of the Grantees have never arrived, or by themselves or others taken any actual Possession of their Shares in the said Townships, and yet by the Terms and Periods in the said Patents they are intitled and will long remain intitled to the said Shares, by Reason whereof numerous Inhabitants in the respective Townships having undivided Parts are greatly oppressed and prejudiced, who on account of such Absentees cannot proceed to divide their Rights by

Preamble.

Eng. Stat. 7. & 9.
 Will. 3. c. 31. made
 Perpetual by 3. & 4.
 Ann. c. 18. Sect. 2.
 Upon Petition of
 any Inhabitant of
 any Township,
 the Supreme Court
 may award a Writ
 of Partition,
 (a) Regist. Brev.
 Judicial. 80. a
 F. N. B. 137. R.
 to be executed by
 the Sheriff, in Pre-
 sence of two Justi-
 ces. Lands actual-
 ly improved by any
 Proprietors, shall be
 set off to them.

(b) Lit. Sect. 246.
 Co. Lit. 167. a. b.
 Shares to be bal-
 lotted for, and the
 Numbers drawn
 expressed in the In-
 quisition, and con-
 firmed by the
 Court.

(c) Return of the
 Sheriff & Jurors by
 the Words of the
 Writ must be under
 their Seals.
 Co. Lit. 168. b.
 Sheriff to give 40
 Days Notice to the
 Occupiers of the
 Lands, &c.

Persons duly noti-
 fied, and neglecting
 to appear, shall be
 defaulted,
 and final Judgment
 for Partition given
 against the Persons
 present;
 and also against the
 Persons defaulted,
 unless they shew a
 probable Matter in
 Bar, within 15
 Days.

private Deeds of Partition, nor can any Summons be legally served as against such Absentees upon Writs of Partition, and for want of dividing the said Lands, a considerable Part thereof is wasted and destroyed by frequent Trespasses and otherwise, or lie uncultivated and unmanured, so that the Profits of the same are totally or in a great Measure lost, to the Injury of His Majesty's Rights in the Quit Rents respectively reserved, as to the Means of recovering the same, and tending to the Vexation of the Inhabitants, by being liable to Suits for an Account of Profits demandable by one Tenant in Common against another, For Remedy whereof, Be it Enacted by the Lieutenant Governor, the Council and Assembly, That upon the Petition of any one or more of the Inhabitants in each Township, to the Supreme Court, praying a Division of the Lands to the Proprietors in Severalty, according to their Shares and Rights, it shall and may be lawful for the said Court to award a Writ of Partition in the usual Form (a), to the Sheriff, to be executed by him or his Deputy, in the Presence of two Justices of the Peace, in Manner following, *That is to say*, that in assigning the Shares in Severalty, in virtue of the said Writ of Partition, the Lands actually occupied and improved shall be set off and assigned to all such Proprietors respectively, who have so occupied and improved the same; and that in assigning the Rights to Lands unimproved, after Division thereof into Shares according to the Number of Grantees in each Township, each Number shall be written on separate Papers and rolled up and placed in a Box (b) from whence each Grantee present shall, in the Order wherein he is named in the Patent of Grant to the Township, draw out one of the said Papers, in the Presence of the Jury attending the Sheriff or Deputy Sheriff; and the Number so drawn shall be expressed in the Inquisition by the Jury, and be accordingly assigned by the Sheriff or Deputy Sheriff and the Justices, in their Return of the Writ of Partition (c); which shall be confirmed by the Judgment of the said Court: And the said Sheriff or his Deputy are hereby required to give due Notice to the Tenants or Occupiers of the Lands, or if they cannot be found, to the Wife, Son, or Daughter, being of the Age of Twenty One Years and upwards, of the Tenant or Tenants, or to the Tenant in actual Possession by virtue of any Estate of Freehold, or for Term of Years, or uncertain Interest, or at Will, of the Lands, Tenements, or Hereditaments, whereof the Partition is demanded, Forty Days before the said Sheriff shall proceed to execute the said Writ of Partition; and if it shall appear to the said Court, upon Return of the said Writ of Partition, that any of the Persons notified neglected to appear, Judgment shall be given by Default as against them, and a final Judgment for Partition shall be given against such Persons as were present at the Time of executing the Writ; and if the Persons against whom the Judgment shall be so given by Default shall not, within Fifteen Days after serving them with Notice of the said Judgment, apply themselves to the said Court by Motion, and shew a good and probable Matter in Bar of the said Partition, the said Judgment by Default shall be confirmed, and final Judgment entered

tered (d). *Provided nevertheless*, that if the Tenants or Persons concerned shall shew to the Court any Inequality in the Partition, the Court may award a new Partition to be made in Presence of all Parties concerned, if they will appear, notwithstanding the Return and Filing upon Record the former; which said second Partition returned and filed shall be good and firm for ever against all Persons, except Infants (e), *Femes Covert* (f), Persons of *Non sane* Memory, who shall, within One Year after the respective Disabilities shall be determined, be intitled to apply to the said Court, and shew a good and probable Matter in Bar of the said Partition, in which Case the said Judgment shall be set aside and a new Writ of Partition shall be awarded, and executed in Presence of all Parties concerned, which Partition shall be final and conclusive against all Persons whatsoever. *Provided also*, That all Persons absent may, within One Year after such Judgment of Partition, to be publickly notified in the *Nova Scotia Gazette*, or any other publick News Paper, three Weeks successively, by their Agents or Attornies apply to the said Court, and alledge any good and probable Matter against the said Partition, and such new Partition and Judgment shall be had as aforesaid; which shall conclude such absent Persons, and all other Persons claiming and deriving under the Grants so passed by His Majesty's Government, for the Settlement and Improvement of the Province. *Provided likewise*, that in such second Writs of Partition, no Lands that have been builded upon, ploughed, or otherwise improved *bona fide*, by the Proprietor intitled under the former Judgment of Partition, shall be devested out of such Proprietor, but that the Equality of Partition shall be made out of the unimproved Lands.

II. *And be it further Enacted*, That no Plea in Abatement shall be admitted or received in any Suit for Partition, nor shall the same be abated by Reason of the Death of any Tenant; and that in all Cases where the former Judgment shall, upon Appeal, be confirmed, the Person or Persons so appealing shall be awarded to pay Costs.

III. *And be it also Enacted*, That from and out of every several Share so to be allotted and assigned to each and every Proprietor, His Majesty's Quit Rents reserved and payable by every Grantee in the respective Patents named, shall be recoverable by the usual Process, and be levied out of the Profits and other extendible Goods and Chattels of such respective Share; and that this Act nor any Thing herein contained, shall extend or be construed to extend to impeach or prejudice His Majesty's Rights to the said Quit Rents, or to any Forfeitures or other Rights in virtue of the said Grants.

IV. 8. Geo. 3. Ch. 10. *Be it enacted by the Governor, Council, and Assembly*, That it shall and may be lawful for the Sheriff or his Deputy, upon receiving any Writ of Partition, for dividing

(d) *Co. Lit.* 169. a. In Case of Inequality, the Court may order a new Partition, which shall bind all Persons, except Infants, &c.

(e) *Lit. Sect.* 258.

Co. Lit. 171. a.

(f) *Lit. Sect.* 256.

257. *Co. Lit.* 170.

b. 171. a.

who may have a new Partition, upon shewing a probable Matter in Bar.

The like Relief for Absentees,

in the second Partition no Proprietor shall be devested of any Lands actually improved by him, but the Equality shall be made out of unimproved Lands.

No Plea in Abatement shall be admitted in Suits for Partition.

The Appellee to pay Costs when the first Judgment shall be confirmed.

His Majesty's Quit Rents to be recoverable out of every Share,

and to be levied out of the profits thereof.

Upon Writs of Partition, Division may be made of any Lands by a Jury of the County in any Part of the County where the Lands shall be.

viding any Lands, to proceed to the Execution thereof, in any Place within the County where the Lands shall be, by a Jury of the said County, who shall accordingly make a Division of the same, agreeable to the Bounds expressed in the Grant, and the best Information that can be procured of the Value, Nature and Quality of the Lands; and such Division, so made, shall be as valid and effectual, to all Intents and Purposes whatsoever, as if the same had been made on the Spot; Provided that the said Division be made, in every other Respect, agreeable to the Laws in such Cases made and provided.

At the GENERAL ASSEMBLY of the Province of *Nova Scotia*, begun and holden at *Halifax*, on the Twenty Eighth Day of *May*, Anno Domini 1765, in the Fifth Year of the Reign of our Sovereign Lord **GEORGE** the Third, of *Great Britain, France, and Ireland*, KING, Defender of the Faith, &c. and there continued by several Prorogations until the Eighteenth Day of *June*, 1768, in the Eighth Year of His said Majesty's Reign; being the Sixth Session of the Fourth General Assembly convened in the said Province.

C A P. I.

An ACT for determining Differences by Arbitration.

Preamble.

Reg. Stat. 9. & 10.
Will. 3. c. 15.

Merchants &c. desiring to end Controversies by Arbitration, may agree their Submission to be made a Rule of Court.

WHEREAS References made by Rule of Court may contribute much to the Ease of the Subject, in the determining of Controversies, because the Parties become thereby obliged to submit to the Award of the Arbitrators, under the Penalty of Imprisonment for their Contempt in Case they refuse Submission; Be it therefore Enacted by the Lieutenant Governor, Council, and Assembly, That it shall and may be lawful for all Merchants and Traders, and others desiring to end any Controversy, Suit, or Quarrel, Controversies, Suits, or Quarrels, for which there is no other Remedy but by Personal Action, or Suit in Equity, by Arbitration, to agree that their Submission of their Suit to the Award or Umpirage of any Persons, should be made a

Rule

Rule of His Majesty's *Supream Court*, or of any of His Majesty's *Inferior Courts of Common Pleas* within this Province, which the Parties shall choose, and to insert such their Agreement in their Submission, or the Condition of the Bond or Promise, whereby they oblige themselves respectively to submit to the Award or Umpirage of any Person or Persons; which Agreement being so made and inserted in their Submission or Promise, or Condition of their respective Bonds, shall or may, upon producing an Affidavit thereof made by the Witnesses thereunto, or any one of them, in the Court of which the same is agreed to be made a Rule, and reading and filing the said Affidavit in Court, be entered of Record in such Court; and a Rule shall thereupon be made by the said Court, that the Parties shall submit to, and finally be concluded by the Arbitration or Umpirage which shall be made concerning them by the Arbitrators or Umpire, pursuant to such Submission; and in Case of Disobedience to such Arbitration or Umpirage, the Party neglecting or refusing to perform and execute the same, or any Part thereof, shall be subject to all the Penalties of contemning a Rule of Court, when he is a Suitor or Defendant in such Court, and the Court on Motion shall issue Process accordingly, which Process shall not be stopped or delayed in its Execution, by any Order, Rule, Command, or Process, of any other Court, either of Law or Equity, unless it shall be made appear on Oath to such Court, that the Arbitrators or Umpire misbehaved themselves, and that such Award, Arbitration, or Umpirage, was procured by Corruption, or other undue Means.

Agreement so made to be inserted in their Submission &c.

Parties to be finally concluded by such Arbitration,

in case of Disobedience Parties subject to Penalty, &c.

unless Arbitrators misbehaved themselves.

II. *And be it further Enacted*, That any Arbitration or Umpirage procured by Corruption, or undue Means, shall be judged and esteemed void and of none Effect, and accordingly be set aside by any Court of Law or Equity, so as Complaint of such Corruption or undue Practice be made in the Court where the Rule is made for Submission to such Arbitration or Umpirage, before the last Day of the next Term after such Arbitration or Umpirage made and published to the Parties; any Thing in this Act contained to the contrary notwithstanding.

Corrupt Arbitrations void, and may be set aside.

C A P. II.

An ACT for giving like Remedy upon Promissory Notes, as is now used upon Bills of Exchange.

HEREAS it has been held that notes in Writing; signed by the Party who makes the same, whereby such Party promises to pay unto any other Person, or his Order, any Sum of Money therein mentioned, are not assignable or indorsible over, within the Custom of Merchants, to any other Person; and that such Person to whom the

Preamble.

Eng. Stat. 3. & 4. Ann. c. 9.

X x

Sum

Sum of Money mentioned in such Note is payable, cannot maintain an Action, by the Custom of Merchants, against the Person who first made and signed the same; and that any Person to whom such Note should be assigned, indorsed, or made payable, could not, within the said Custom of Merchants, maintain any Action upon such Note against the Person who first drew and signed the same: Therefore to the Intent to encourage the Trade and Commerce of this Province, which will be much advanced, if such Notes shall have the same Effect as Inland Bills of Exchange, and shall be negotiated in like Manner: Be it Enacted by the Lieutenant Governor, Council, and Assembly, That all Notes in Writing, made and signed by any Person or Persons, or by the Servant or Agent of any Merchant, Trader, or other Person or Persons, who is usually intrusted by him, her, or them, to sign such Promissory Notes for him, her, or them, whereby such Person or Persons, his, her, or their Servant or Agent, as aforesaid, doth or shall promise to pay to any other Person or Persons, his, her, or their Order, or unto the Bearer, any Sum of Money mentioned in such Note, shall be taken and construed to be, by virtue thereof, due and payable to any such Person or Persons, to whom the same is made payable; and also every such Note payable to any Person or Persons, his, her, or their Order, shall be assignable or indorsible over, in the same Manner as Inland Bills of Exchange are or may be, according to the Custom of Merchants; and that the Person or Persons, to whom such Sum of Money is or shall be by such Note made payable, shall and may maintain an Action for the same, in such Manner as he, she, or they might do, upon any Inland Bill of Exchange, made or drawn according to the Custom of Merchants, against the Person or Persons, who, or whose Servant or Agent, as aforesaid, signed the same; and that any Person or Persons, to whom such Note that is payable to any Person or Persons, his, her, or their Order; is indorsed or assigned, or the Money therein mentioned ordered to be paid by Indorsement thereon, shall and may maintain his, her, or their Action for such Sum of Money; either against the Person or Persons, who, or whose Servant or Agent, as aforesaid, signed such Note, or against any of the Persons that indorsed the same, in like Manner as in Cases of Inland Bills of Exchange: And in every such Action the Plaintiff or Plaintiffs shall recover his, her, or their Damages and Costs of Suit; and if such Plaintiff or Plaintiffs shall be Nonsuited, or a Verdict be given against him, her, or them, the Defendant or Defendants shall recover, his, her, or their Costs against the Plaintiff or Plaintiffs; and every such Plaintiff or Plaintiffs, Defendant or Defendants, respectively recovering, may sue out Execution for such Damages and Costs.

Promissory Notes may be assigned or indorsed, and Action maintained thereon, as on Inland Bills of Exchange.

Plaintiff or Defendant may recover Costs.

How Actions shall be brought.

II. *And be it further Enacted, That all and every such Actions shall be commenced, sued and brought, within such Time as is appointed for commencing or suing Actions upon the Case, by the Act of this Province, made in the Thirty Second Year of his late Majesty's Reign, intitled An Act for Limitation of Actions, and for avoiding Suits of Law.*

C A P. III.

An ACT for enabling the Sale of Goods distrained
for Rent.

W *HEREAS* the most ordinary and ready way for recovery of Arrears of Rent is by Distress; yet such Distresses not being to be sold, but only detained as Pledges for enforcing the Payment of such Rent, the Persons distraining have little Benefit thereby; For the remedying whereof, Be it Enacted by the Lieutenant Governor, Council and Assembly, That where any Goods or Chattels shall be distrained for any Rent reserved and due upon any Demise, Lease, or Contract whatsoever, and the Tenant or Owner of the Goods so distrained shall not, within Five Days next after such Distress taken, and Notice thereof (with the Cause of such taking) left at the chief Mansion House, or other most notorious Place on the Premises charged with the Rent distrained for, replevy the same with sufficient Security to be given to the Sheriff, according to Law; that then in such Case, after such Distress and Notice as aforesaid, and Expiration of the said Five Days, the Person distraining shall and may with the Sheriff or his Deputy, or with the Constable of the Town or Place where such Distress shall be taken (who are hereby required to be aiding and assisting therein) cause the Goods and Chattels so distrained to be appraised by two sworn Appraisers (whom any Justice of the Peace of the County where such Goods shall be distrained, or such Sheriff or his Deputy, are hereby impowered to swear) to appraise the same truly according to the best of their Understandings; and after such Appraisement shall and may lawfully sell the Goods and Chattels so distrained, for the best Price that can be gotten for the same, towards Satisfaction of the Rent for which the said Goods and Chattels shall be distrained, and of the Charges of such Distress, Appraisement and Sale, leaving the Overplus (if any) in the Hands of the said Sheriff, his Deputy, or Constable, for the Owner's use.

II. *And Whereas* no Sheaves or Cocks of Corn loose or in the Straw, or Hay in any Barn, or on any Hovel, Stack, or Rick, can by the Law be distrained, or otherwise secured for Rent, whereby Landlords may be oftentimes censured and deceived by their Tenants, who may sell their Corn, Grain, and Hay, to Strangers, and remove the same from the Premises chargeable with such Rent, and thereby avoid the Payment of the same, Be it further Enacted by the Authority aforesaid, That it shall and may be lawful to and for any Person or Persons having Rent Arrear, and due upon any such Demise, Lease, or Contract, as aforesaid, to seize and secure any Sheaves or Cocks of Corn, or Corn loose, or in the Straw, or Hay lying or being in any Barn, or upon any Hovel, Stack, or Rick, or otherwise upon any Part of the Land or ground charged with such Rent,

*Eng. Stat. 2. Will.
& Mar. Stat. 1. c. 5.
Brit. Stat. 8.
Ann. c. 14.
11. Geo. 2. c. 19.*

Goods Distrained—
for Rent may be
appraised and Sold.

Corn loose &c. may
be Distrained and
sold.

Rent, and to lock up or detain the same in the Place where the same shall be found, for or in the Nature of a Distress, until the same shall be replevied upon on such Security to be given as aforesaid; and in Default of replevying the same as aforesaid; within the Time aforesaid, to sell the same after such Appraisement thereof to be made; so as nevertheless such Corn, Grain, or Hay, so distrained as aforesaid, be not removed by the Person or Persons distraining, to the Damage of the Owner thereof, out of the Place where the same shall be found and seized, but be kept there (as impounded) until the same shall be replevied, or sold in Default of replevying the same within the Time aforesaid.

Treble Damages
for Pound Breach:

III. *And be it further Enacted*, That upon any Pound Breach, or Rescuous of Goods or Chattels distrained for Rent, the Person or Persons grieved thereby, shall, in a special Action upon the Case for the Wrong thereby sustained, recover his and their Treble Damages and Costs of Suit, against the Offender or Offenders in any such Pound Breach or Rescuous, any or either of them, or against the Owners of the Goods distrained in case the same be afterwards found to have come to his Use or Possession.

Double Damages
and Costs against
wrongful Distrainer.

IV. *Provided always, and be it further Enacted*, That in case any such Distress and Sale, as aforesaid, shall be made by Virtue or Colour of this present Act, for Rent pretended to be Arrear and due, where in Truth no Rent is Arrear or due to the Person or Persons distraining, or to him or them in whose Name or Names, or Right, such Distress shall be taken as aforesaid, that then the Owner of such Goods or Chattels distrained and sold as aforesaid, his Executors or Administrators, shall and may, by Action of Trespass, or upon the Case, to be brought against the Person or Persons so distraining, any or either of them, his or their Executors or Administrators, recover double the Value of the Goods or Chattels so distrained and sold, together with full Costs of Suit.

No Goods &c. to
be taken in Execu-
tion &c. unless the
Party before Remo-
val of the Goods
&c. pay the Land-
lord the Rent due.

V. *And be it further Enacted*, That no Goods or Chattels whatsoever, lying or being in or upon any Messuage, Lands, or Tenements, which are or shall be leased for Life or Lives, Term of Years, at Will, or otherwise, shall be liable to be taken by virtue of any Execution, on any Pretence whatsoever, unless the Party at whose Suit the said Execution is sued out, shall before the Removal of such Goods from off the said Premises, by virtue of such Execution or Extent, pay to the Landlord of the said Premises, or his Bailiff, all such Sum or Sums of Money as are or shall be due for Rent for the said Premises at the Time of the taking such Goods or Chattels by virtue of such Execution; *Provided* the said Arrears of Rent do not amount to more than one Year's Rent; and in case the said Arrears shall exceed one Year's Rent, then the said Party, at whose Suit such Execution is sued out, paying the said Landlord, or his Bailiff one Year's Rent, may proceed

Provided it amounts
to no more than
one Year's Rent.

ceed to execute his Judgment, as he might have done before the making of this Act; and the Sheriff or his Deputy, or other Officer, is hereby impowered and required to levy and pay to the Plaintiff as well the Money so paid for Rent, as the Execution Money.

VI. *And be it further Enacted*, That in case any Lessee for Life or Lives, Term of Years, at Will, or otherwise, of any Messuages, Lands, or Tenements, upon the Demise whereof any Rents are or shall be reserved or made payable, shall fraudulently or clandestinely convey or carry off or from such demised Premises, his Goods or Chattels, with Intent to prevent the Landlord or Lessor from distraining the same for Arrears of such Rent so reserved as aforesaid, it shall and may be lawful to and for such Lessor or Landlord, or any Person or Persons by him for that purpose lawfully impowered, within the space of Twenty one Days next ensuing such conveying away or carrying off such Goods or Chattels as aforesaid, to take and seize such Goods and Chattels wherever the same shall be found, as a Distress for the said Arrears of such Rent, and the same to sell, or otherwise dispose of in such Manner, as if the said Goods and Chattels had actually been distrained by such Lessor or Landlord, in and upon such demised Premises for such Arrears of Rent; any Law, Custom, or Usage to the contrary in any wise notwithstanding.

VII. *Provided nevertheless*, That nothing in this Act contained shall extend, or be construed to extend, to impower such Lessor or Landlord to take or seize any Goods or Chattels as a Distress for Arrears of Rent, which shall be sold *bona fide*, and for a valuable Consideration, before such Seizure made; any Thing herein contained to the contrary notwithstanding.

VIII. *And Whereas no Action of Debt lies against a Tenant for Life or Lives, for any Arrears of Rent, during the Continuance of such Estate for Life or Lives, Be it Enacted*, That it shall and may be lawful for any Person or Persons, having any Rent in Arrear or due upon any Lease or Demise for Life or Lives, to bring an Action or Actions of Debt for such Arrears of Rent, in the same Manner as they might have done, in case such Rent were due and reserved upon a Lease for Years.

IX. *And whereas Tenants pur auter vic, and Lessees for Years, or at Will, frequently hold over the Tenements to them demised, after the Determination of such Leases; And Whereas after the Determination of such, or any other Leases, no Distress can by Law be made for any Arrears of Rent that grow due on such respective Leases, before the Determination thereof; It is further Enacted*, That it shall and may be lawful, for any Person or Persons, having any Rent in Arrear or due upon any Lease for

The Sheriff to levy the Rent as well as the Execution Money.

If any Lessee for Life &c. shall fraudulently carry off Goods &c. the Lessor &c. may within 21 Days after seize such Goods &c. and sell the same as if they had been distrained.

Provided such Lessor shall not seize Goods &c. which shall be *bona fide* sold before.

Debt may be so against Tenant for Life, for Rent.

Rent in Arrear upon a Lease for Life &c. expired may be distrained for after the Determination of the Lease.

Within what Time such Distress shall be made.

Stock or Cattle on the Premises, may be distrained for Arrears of Rent.

Tenants to have Notice of the Place where the Distress is lodged.

This Act shall not hinder the King &c. to levy &c. any Quit Rents &c. due to the Crown.

Life or Lives, or for Years, or at Will, ended or determined, to distress for such Arrears, after the Determination of the said respective Leases, in the same Manner as they might have done, if such Lease or Leases had not been ended or determined.

X. *Provided*, That such Distress be made within the Space of Six Calendar Months, after the Determination of such Lease and during the Continuance of such Landlord's Title or Interest, and during the Possession of the Tenant from whom such Arrears became due.

XI. *And be it further Enacted*, That it shall and may be lawful to and for every Lessor or Landlord, Lessors or Landlords, or his, her, or their Steward, Bailiff, Receiver, or other Person or Persons empowered by him, her, or them, to take and seize, as a Distress for Arrears of Rent, any Cattle or Stock, of their respective Tenant or Tenants, feeding or depasturing upon any Common, Appendant or Appurtenant, or any ways belonging to all or any Part of the Premises demised or holden; and also to take and seize all sorts of Corn and Grass, Hops, Roots, Fruits, Pulse, or other Product whatsoever, which shall be growing on any Part of the Premises so demised or holden, as a Distress for Arrears of Rent; and the same to cut, gather, make, cure, carry, and lay up, when ripe, in the Barns, or other proper Place on the Premises so demised or holden; and in case there shall be no Barn or proper Place on the Premises so demised or holden, then in any other Barn or proper Place which such Lessor or Landlord, Lessors or Landlords shall hire or otherwise procure for that Purpose, and as near as may be to the Premises; and in convenient Time to appraise, sell, or otherwise dispose of the same, towards Satisfaction of the Rent for which such Distress shall have been taken, and of the Charges of such Distress, Appraisement and Sale, in the same Manner as other Goods and Chattels may be seized, distrained and disposed of; and the Appraisement thereof to be taken when cut, gathered, cured, and made, and not before.

XII. *Provided always*, That Notice of the Place where the Goods and Chattels so distrained shall be lodged or deposited, shall, within the space of one Week after the lodging or depositing thereof in such Place, be given to such Lessee or Tenant, or left at the last Place of his or her Abode.

XIII. *Provided always, and it is hereby Enacted*, That nothing in this Act contained shall extend, or be construed to extend, to let, hinder, or prejudice His Majesty, his Heirs or Successors, in the levying, recovering or seizing, any Quit Rents, Debts, Fines, Penalties, or Forfeitures, that are or shall be due, payable, or answerable, to His Majesty, his Heirs or Successors; but that it shall and may be lawful for

for

for His Majesty, his Heirs and Successors, to levy, recover, and seize, such Quit Rents, Debts, Fines, Penalties and forfeitures, in the same Manner as if this Act had never been made; any Thing in this Act contained to the contrary thereof in any wise notwithstanding.

C A P. IV.

An ACT for taking Special Bails in the Country, upon Actions depending in His Majesty's Supreme Court of this Province.

FOR the greater Ease and Benefit of all Persons whatsoever, in making Oath to their Debts, and in taking the Recognizances of Special Bails, upon all Actions and Suits depending, or to be depending in His Majesty's Supreme Court of this Province: Be it Enacted by the Lieutenant Governor, Council, and Assembly, That the Chief Justice and other the Justices of His Majesty's said Supreme Court, or any two of them, whereof the Chief Justice for the Time being to be one, shall or may, by one or more Commission or Commissions under the Seal of the said Court, from Time to Time as Need shall require, empower such and so many Persons, other than common Attornies and Solicitors, as they shall think fit and necessary, in all and every the several Counties within this Province, to administer an Oath in Writing to any Person where it shall be necessary to hold any Defendant to Bail, upon any Original Writ or Process issuing out of the said Court, and to mark the Writ for Bail accordingly; and also to take and receive all and every such Recognizance or Recognizances of Bail or Bails, as any Person or Persons shall be willing or desirous to acknowledge or make before any of the Persons so empowered, in any Action or Suit depending or hereafter to be depending in the said Court, in such Manner and Form and by such Recognizance or Bail Piece, as the said Justices have used to take the same; which said Oath in Writing, and the said Recognizance or Recognizances of Bail, or Bail Piece, so taken as aforesaid, shall be transmitted to some or one of the Justices of the said Court, who, upon Affidavit made of the due taking of the Recognizance of such Bail or Bail Piece, by some credible Person present at the taking thereof, shall receive the same, upon Payment of a Fee of Two Shillings and no more; which said Oath, and Recognizance of Bail, or Bail Piece, so taken and transmitted, shall be of the like Effect, as if the same were taken *de bene esse* before any of the said Justices of the said Court; for the administering of every which Oath and marking such Writ as aforesaid, the said Commissioners shall receive only the Sum or Fee of Two Shillings and no more; and for the taking of every which Recognizance or Re-

Preamble.
4. Will. & Mar.
c. 4.

Chief Justice &c. of the Supreme Court, may make any Persons, except Attornies and Solicitors, Commissioners to take Bail &c. in the Country.

Justices to receive the Bail Piece &c. upon Affidavit of due Execution.

Justices Fee.

Bail taken below to be as *de bene esse*.

Commissioners Fee.

cogni-

cognizances of Bail or Bail Piece, the said Commissioners shall receive only the Sum or Fee of Five Shillings and no more.

Power given to the Justices to make Rules for justifying the Bail.

II. *And be it further Enacted*, That the Justices of the said *Supream Court* shall make such Rules and Orders for the justifying of such Bails, and making of the same absolute, as to them shall seem meet, so as the Cognizor or Cognizors of such Bail or Bails be not compelled to appear in Person in the said Court, to justify him or themselves, but the same may be and hereby is directed to be determined by Affidavit or Affidavits duly taken before the said Commissioners, who are hereby impowered and required to take the same, and also to examine the Sureties upon Oath, touching the Value of their respective Estates, unless the Cognizor or Cognizors of such Bail do live within the Town of *Halifax*, or within Twenty Miles thereof.

Felony for any Person to be Bail in another Man's Name.

III. *And be it further Enacted*, That any Person or Persons, who shall before any Person or Persons impowered by virtue of this Act, as aforesaid, to take Bail or Bails, represent or personate any other Person or Persons, whereby the Person or Persons so represented or personated may be liable to the Payment of any Sum or Sums of Money, for Debt or Damages to be recovered in the same Suit or Action, wherein such Person or Persons are represented and personated, as if they had really acknowledged and entered into the same, being lawfully convicted thereof, shall be adjudged, esteemed, and taken to be Felons, and suffer the Pains of Death, and incur such Forfeitures and Penalties as Felons in other Cases convicted or attainted do by the Laws of England lose and forfeit.

C A P. V.

An ACT for the convenient and speedy Assignment of Dower.

Preamble.

✦✦✦✦✦✦ *ORASMUCH* as some Directions in the Law are necessary, that Women may be enabled to come by their Dower; Be it Enacted by the Lieutenant Governor, Council, and Assembly, That when and so often as the Heir or other Person having the Freehold, shall not within one Month next after Demand made, Assign and set out to the Widow of the Deceased, her Dower or just third Part of and in all Houses, Lands, Tenements, or Hereditaments, whereof she is Dowable at the Common Law, to her Satisfaction according to the true Intendment of Law, then such Widow may sue for and recover the same by Writ of Dower, to be therefore brought against such Persons as have, or claim to have Right as aforesaid in the said Estate, in Manner and Form following, *That is to say*,

Heir &c. to render Dower within one Month next after Demand.

II. GEORGE

GEORGE the Third, by the Grace of GOD of Great Britain, France and Ireland, KING, Defender of the Faith, &c.

To the Sheriff of Our or his Deputy,
Greeting.

COMMAND A. B. within the said County, that instantly without Delay render to C. D. who was the Wife of E. D. late of aforesaid deceased, her reasonable Dower which happens to her of a certain Messuage or Tenement with the Appurtenances, situate in aforesaid, in the Possession of the said A. B. which was in the Seizin and Possession of her said Husband E. D. and whereof he was seized in his Demesne as of Fee during the Coverture, and whereof she hath nothing (as she saith) and the said C. D. complains that the said A. B. hath deforced her thereof. And unless the said A. B. shall so do, then summon by good and lawful Men in the said County, the said A. B. that he be before our Justices of Our Court next to be holden at for the County of aforesaid, on the Day of then and there to shew Cause, why to the said C. D. her reasonable Dower as aforesaid doth not render. And have you the Names of them by whom you summon the said A. B. and this Writ. Witness E. H. Esquire, at the Day of in the Year of Our Reign, Annoque Domini

Writ of Dower.

A. D. Clerk.

II. And be it further Enacted, That upon Judgment being given for any Woman to recover her Dower in any Estate of Houses and Lands, and other Hereditaments, which were her Husband's, reasonable Damage shall also be assigned to her from the Time of the Demand made, and a Writ of Seizin shall be directed to the Sheriff or his Deputy, in Manner and Form following; That is to say.

Reasonable Damage to be assigned to the Widow.

GEORGE the Third, by the Grace of GOD, of Great Britain, France, and Ireland, KING, Defender of the Faith, &c.

To the Provost Marshal of Our Province of Nova Scotia, or his Deputy,
Greeting.

WHEREAS C. D. Widow, who was the Wife of E. D. late of in the County aforesaid deceased, before our Justices of our Court holden at for Our County aforesaid, on the Day of now last past, did recover her Seizin against A. B. of aforesaid of one Third Part of a certain Messuage or Tenement, &c. with the Appurtenances, situate in aforesaid, in the Possession of the said A. B. as her Dower of the Endowment of the said E. D. her certain Husband, by Our Writ of Dower, whereof she hath nothing. Therefore We Command you that to the said C. D. full Seizin of one Third Part of the aforesaid Messuage or Tenement, &c. with the Appurtenances

Writ of Seizin.

tenances you cause to be had without Delay: To hold to her in Severalty by Metes and Bounds. We Command you also, that of the Goods or Chattels of the said A. B. within your Precinct, you cause to be paid and satisfied unto the said C. D. at the Value thereof in Money, the Sum of for Damages awarded her by Our said Court, for her being held and kept out of her Dower aforesaid, and Costs expended on this Suit, with more for this Writ; and thereof also to satisfy yourself your own Fees. And for want of Goods or Chattels of the said A. B. to be by him shewn unto you, or found within your Precinct, to satisfy the same, We Command you to take his Body, and commit him to the Keeper of Our Goal in in Our County aforesaid within the said Prison. Whom we likewise Command to receive the said A. B. and him safely to keep, until he pay unto the said C. D. the full Sum above mentioned, and also satisfy your Fees. Hereof fail not, and make Return of this Writ, and how you shall have executed the same, to Our next Court to be holden at for Our said County of on the Day of next. Witness E. H. Esquire, at the Day of in the Year of Our Reign, Annoque Domini 17

A. D. Clerk.

And where no Damages shall be awarded, the Writ to run only for Seizin and Costs of Suit.

Dower to be set forth by five Freeholders, upon Oath.

III. *And be it further Enacted*, That the Sheriff or his Deputy, to whom such Writ is directed, is to cause her Third Part of Dower in such Estate, to be set forth unto her by five Freeholders of the Neighbourhood, upon their Oaths, (Three at least to agree) who shall be sworn before a Justice of the Peace, to set forth the same equally and impartially without Favor or Affection, as convenient as may be; which Oath every Justice of the Peace is hereby impowered to administer.

In what Manner intire Inheritances shall be assigned.

IV. *And be it further Enacted*, That of Inheritances that be intire, where no Division can be made by Metes and Bounds, so as a Woman cannot be endowed of the Thing itself, she shall be endowed thereof in a special and certain Manner, as of a Third Part of the Rents, Issues, or Profits thereof, to be computed and ascertained in Manner as aforesaid. And no Woman that shall be endowed of any Lands, Tenements, or other Inheritances, as aforesaid, shall commit or suffer any Strip or Waste thereupon, but shall maintain the Houses or Tenements, with the Fences and Appurtenances thereof, with which she shall be so endowed, in good Repair during her Term, and leave the same so at the Expiration thereof, and shall be liable to Action for any Strip or Waste by her done, committed or suffered.

Widow shall not make Strip or Waste.

C A P. VI.

An ACT for discharging the Penalties and Forfeitures in Bonds, Contracts, and Agreements, on Payment and Satisfaction of the principal Sum and Damages due upon the same.

Be it Enacted by the Lieutenant Governor, Council, and Assembly, That in every Action upon any Bond, Contract, and Agreement, with Penalty for Performance of the Condition contained in such Bond, Contract, or Agreement, it shall and may be lawful for the respective Courts, where such Action shall be brought, upon due Proof of the just Sum due upon the Condition of such Bonds, Contracts, and Agreements, together with all such Damages and Costs as have been incurred by Non performance of the Condition, to direct and receive a Verdict for the Sum and Damages so proved at the Trial; and to cause Satisfaction to be entered up on the Judgment upon such Bond, Contract and Agreement, upon Payment of the Debt and Damages, so to be ascertained by Verdict or otherwise.

II. *And be it further Enacted,* That when any Action of Debt shall be brought on any single Bill, or where Debt or *Scire facias* shall be brought on any Judgment, if the Defendant hath paid the Money, such Payment may be pleaded in Bar; and where Debt is brought on any Bond which hath a Condition or Defeazance to make void the same upon Payment of a lesser Sum, if the Obligor, his Heirs, Executors, or Administrators, have, before the Action brought, paid the Principal and Interest due, though such Payment was not made strictly according to the Condition of the Defeazance, yet it may be pleaded in Bar, and shall be as effectual as if the Money had been paid at the Day and Place according to the Condition, and had been so pleaded.

III. *And be it further Enacted,* That if at any Time pending an Action upon such Bond with a Penalty, the Defendant shall bring into Court the Principal and Interest due, and all Costs already expended in any Suit in Law or Equity upon such Bond, the Money shall be taken in Satisfaction of the Bond, and the Court shall give Judgment to discharge such Defendant.

4. Ann. c. 16.

In Actions brought upon Bonds, &c. with Penalties, Verdict shall be only for the Sum justly due.

In Action of Debt brought on single Bill or Judgment, after Money paid, such Payment may be pleaded in Bar.

Principal and Interest on Bonds, &c. being paid in Court, &c. the Court may discharge the Defendant.

C A P. VII.

An ACT to prevent the malicious killing or maiming of Cattle.

22. & 23. Car. 2.
c. 7. f. 5.

Treble Damages
for killing or
maiming of Cattle.

It is Enacted by the Lieutenant Governor, Council and Assembly, That if any Person or Persons, shall maliciously, unlawfully, and willingly, kill, maim, wound, or otherwise hurt, any Horses, Sheep, or other Cattle, every such Offender or Offenders shall lose and forfeit unto the Party grieved, Treble the Damage which he or they shall sustain, to be recovered by Action of Trespass, or upon the Case, in any of His Majesty's Courts of Record in this Province.

At the GENERAL ASSEMBLY of the Province of *Nova Scotia*, begun and holden at *Halifax*, on the Twenty Eighth Day of *May*, Anno Domini 1765, in the Fifth Year of the Reign of our Sovereign Lord GEORGE the Third, of *Great Britain, France, and Ireland*, KING, Defender of the Faith, &c. and there continued by several Prorogations until the Twenty Second Day of *October*, 1768, in the Eighth Year of His said Majesty's Reign; being the Seventh Session of the Fourth *General Assembly* convened in the said Province.

C A P. I.

An ACT for the rating and levying of the Charges for conveying Malefactors and Offenders to the Goal.

Preamble.

Eng. Stat. 3. Jac. 1.
c. 10.

WHEREAS His Majesty's Subjects are much charged and burthened in conveying Felons and other Malefactors and Offenders against His Majesty's Laws, unto the Goal, punishable by Imprisonment there, the said Felons and other Malefactors and Offenders having Goods and Chattels of their own, whereby to defray the same Charges themselves, to the great Encouragement

of such Malefactors and Offenders in their said wicked and bad Courses, and to the Discouragement of His Majesty's said Subjects, in prosecuting the said Malefactors and Offenders to be punished according to their Demerits; Be it therefore Enacted by the Lieutenant Governor, Council, and Assembly, That all and every Person and Persons whatsoever, that shall hereafter be committed to the common or usual Goal within any County in this Province, by any Justice or Justices of the Peace, for any Offence or Misdemeanor, that the said Person or Persons so to be committed as aforesaid, having Means or Ability thereunto, shall bear their own reasonable Charges for so conveying or sending them to the said Goal, and the Charges also of such as shall be appointed to guard them to such Goal, and shall so guard them thither: And if any such Person or Persons, so to be committed as aforesaid, shall refuse at the Time of their Commitment and sending to the said Goal, to defray the said Charges, or shall not then pay or bear the same, that then such Justice or Justices of the Peace shall and may, by Writing under his or their Hand and Seal, or Hands and Seals, give Warrant to the Constable or Constables of the Town or Place where such Person or Persons shall be dwelling and inhabit, or from whence he or they shall be committed as aforesaid, or where he or they shall have any Goods within the County, Town or Place, to sell such and so much of the Goods and Chattels of the said Persons, so to be committed, as by the Discretion of the said Justice or Justices of the Peace, shall satisfy and pay the Charge of such his or their conveying and sending to the said Goal; the Appraisement to be made by four of the honest Inhabitants of the Town or Place where such Goods or Chattels shall remain and be, and the Overplus of the Money which shall be made thereof to be delivered to the Party to whom the said Goods shall belong.

Offenders to be conveyed to Goal at their own Charge.

How the Charge shall be levied if the Prisoner refuse to pay.

II. And be it further Enacted, That if the said Person or Persons so to be committed as aforesaid, shall not have or be known to have any Goods or Chattels, which may be sold for the Purpose aforesaid, within the County, Town or Place, that then the said Justice or Justices, on Application by any Constable or other Officer who so conveyed such Person or Persons to Goal, shall upon Oath examine into and ascertain the reasonable Expences to be allowed such Constable or other Officer, and shall forthwith, without Fee or Reward, by Warrant under his or their Hand and Seal, or Hands and Seals, order the Treasurer of the County to pay the same, which the said Treasurer is hereby required to do, as soon as he receives such Warrant; and any Sum so paid shall be allowed in his Accounts.

If the Offender be not able to bear his Charges, the same shall be paid by the County Treasurer.

III. And Whereas the Expence as well as Loss of Time in attending Courts of Justice, is a Discouragement to the poorer Sort to appear as Witnesses against Offenders, who thereby escape the Public Justice, and the Punishment due to their Crimes, Be it further Enacted, That when any poor Person shall appear on Recognizance in any Court, to give Evi-

Brit. Stat. 27. Geo. 2. c. 3.

Charges of poor
Witnesses to be paid
by the County Treas-
urer, by Order of
Court.

dence against another accused of any *Grand* or *Petit* Larceny, or other Felony, it shall and may be in the Power of the Court, at the Prayer and on the Oath of such Person, and on Consideration of his Circumstances, in open Court to order the Treasurer of the County in which the Offence shall have been committed, to pay unto such Person such Sum of Money, as to the said Court shall seem reasonable for his Time, Trouble and Expence; which Order the proper Officer of such Court is hereby directed and required to make out, and to deliver unto such Person, upon being paid for the same the Sum of Six Pence and no more; and such Treasurer is hereby authorized and required, upon Delivery of such Order, forthwith to pay to such Person, or other Persons authorized to receive the same, such Sum of Money as aforesaid, and shall be allowed the same in his Accounts.

In Counties where
no Treasurer is ap-
pointed, &c. such
Charges shall be
paid out of the pub-
lic Treasury.

IV. *And be it further Enacted*, That in such Counties where no County Treasurer shall have been chosen, or in Case such Treasurer shall not have any Money in his Hands, to pay the Sum so ordered for conveying poor prisoners to Goal, or for the Attendance of Witnesses, that then and in such Case the same shall be paid out of the Public Treasury of the Province.

The Defendant's
Plea in an Action
brought for any
Thing done by
Force of this Act.

V. *And be it further Enacted*, That if any Action of Trespass or other Suit shall happen to be attempted or brought against the Person or Persons for taking of any Distress, making of any Sale, or any other Act by Authority of this present Act, the Defendant or Defendants in any such Action or Suit, shall and may either plead Guilty, or otherwise make Avowry, Cognizance or Justification, for the taking of the said Distress, making of Sale, or any other Act by Virtue of this Act, alledging in such Avowry, Cognizance, or Justification, that the said Distress, Sale, Trespass or other Thing whereof the Plaintiff or Plaintiffs complained, was done by Authority of this Act, and according to the Tenor, Purport, and Effect of this Act, without any expressing or Rehearsal of any other Matter of Circumstance contained in this present Act: To which Avowry, Cognizance, or Justification, the Plaintiff shall be admitted to reply, That the Defendant did take the said Distress, made the said Sale, or did any other Act or Trespass supposed in his Declaration, of his own Wrong, without any such Cause alledged by the said Defendant; whereupon the Issue in every such Action shall be joined to be tried by Verdict of Twelve Men, and not otherwise, accustomed in other Personal Actions; and upon the Trial of that Issue the whole Matter to be given on both Parties in Evidence, according to the very Truth of the same; and after such Issue tried for the Defendant, or Nonsuit of the Plaintiff after Appearance, the said Defendant to recover Treble Damages by Reason of his wrongful Vexation in that Behalf, with Costs also on that Part sustained; and that to be assessed by the same Jury, or Writ to enquire of the Damages, as the same shall require.

The Defendant
shall recover Treble
Damages, and
Costs of Suit.

C A P. II.

An Act relating to Searchers and Sealers of Leather.

❖❖❖❖❖ *E it Enacted by the Lieutenant Governor, Council, and As-*
 ❖ *sembly, That no Tanner or other Person whatsoever, shall*
 ❖ *sell or expose to sale, any Leather tanned, curried or*
 ❖ *otherwise dressed or manufactured within this Province,*
 ❖ *or imported into the same. (from any of the neighbouring Colonies)*
till the same has been viewed, stamped, and marked by the Officer for
that Purpose to be appointed, on pain of forfeiting the Sum of Twenty
Shillings for every Ox, Bull, Steer, or Cow Hide, and Five Shil-
lings for every Calf Skin so sold or offered to be sold.

II. *And be it further Enacted, That every Surveyor appointed and*
sworn according to Law, shall, from Time to Time, view all such
Hides and Skins as aforesaid, and shall stamp and mark all such as he
shall find to be sufficiently tanned, curried, or otherwise dressed or
manufactured; and if any such Hides or Skins shall have been manu-
factured within this Province, the same shall be stamped and marked
with the first Letter of the Name of the Town wherein they have been
so manufactured, and such Surveyor shall be paid for his Trouble in
viewing and marking such Hides and Skins, at the following Rates,
That is to say, for every Ox, Bull, Steer or Cow Hide, three Pence,
and for every Calf Skin one Penny; and every such Hide shall, at the
Time of being so surveyed and marked, be weighed also in Presence
of the Surveyor, and the weight thereof shall by him be marked on
said Hide.

III. *And be it also Enacted, That if any Person or Persons shall pre-*
sume to counterfeit the Stamp or Mark by this Act required, and shall
be thereof convicted before any Two of His Majesty's Justices of the
Peace, he shall forfeit the Sum of Ten Pounds.

IV. *And be it also further enacted, That all Forfeitures and Penal-*
ties arising by Force and Virtue of this Act, shall be one half to the
Informor, and the other half to the use of the Poor, and he recovered
by Complaint or Information, before any two of His Majesty's Justi-
ces of the Peace for the County where such Complaint or Information
shall arise; and be levied, upon due Conviction, by Warrant of Dis-
treffs and Sale of the Offender's Goods and Chattels, under the Hand
and Seal of such Justices; and for want of sufficient Distress the Offen-
der to suffer one Month's Imprisonment.

No Leather shall be sold or exposed to Sale, before it has been viewed and marked by the Surveyor.

The Surveyor shall view all Hides and Skins, and mark such as are sufficiently tanned, &c.

and if manufactured within the Province, the same shall be marked with the first Letter of the Name of the Town where manufactured.

Penalty £10. for counterfeiting the Surveyor's Mark.

How Forfeitures and Penalties shall be applied.

C A P. III.

An ACT to empower the Supreme Court, at their stated Sittings in the Town of Halifax, to try Offenders who may be guilty of Felonies in other Counties in this Province.

Preamble.

WHEREAS it often happens that Persons are charged with committing Felonies in many Parts of this Province, at a great Distance from the Town of Halifax, and in such Cases His Majesty's Governors have found it necessary and expedient to issue Commissions of Oyer and Terminer, and General Goal Delivery, for the Trial of such Offenders in the proper Counties where such Offences have been committed: And Whereas it has been found by Experience, that the executing such Commissions in those Counties which are situated on the Sea Coasts, or to which there is no Communication by Land, has been attended with great Expence, in the Hire of Vessels to carry the Judges and the Officers of the Court, and for their Support; and the Uncertainty of Passages by Sea renders it very difficult to procure Jurors, and also to collect the Witnesses that may be necessary to be examined on the Trial of such Offenders, as the Inhabitants do not live together in any one Town or Place, but are settled in different Parts of the Country, many Miles distant from each other: In order therefore to remedy these Inconveniences, Be it enacted by the Lieutenant Governor, Council, and Assembly, When any Person or Persons shall be charged with any Felony, done or committed in any County situate on the Sea Coasts of this Province, or to which there is no Communication with the Town of Halifax by Land, that the Justice of the Peace before whom such Offender or Offenders shall be examined, shall commit such Offender or Offenders to His Majesty's Common Goal for the County of Halifax, and shall bind the Witnesses by Recognizance, to appear and give Evidence against such Offender or Offenders, at His Majesty's Supreme Court, Court of Assize, or General Goal Delivery next to be held for the County of Halifax.

Persons charged with Felonies, done in any County, to which there is no Communication by Land with the Town of Halifax, shall be committed to the County Goal of Halifax, and the Witnesses bound to appear at the next Supreme Court at Halifax.

The Supreme Court held for the County of Halifax, empowered to proceed against such Offenders.

II. And be it further Enacted, That His Majesty's said Supreme Court, Court of Assize, or General Goal Delivery, shall be and hereby is empowered to proceed to the Trial of such Offenders, in the same Manner as if the Felonies with which they are charged had been done and committed in the County of Halifax; and all Trials, Verdicts, Judgments, Executions, and other Proceedings whatsoever of the said Court, to be had thereupon, shall be and hereby is declared to be as good, valid, and effectual in the Law, to all Intents and Purposes whatsoever, as if the same had been in the County where such Felonies had been committed; any Law, Usage, or Custom to the contrary thereof in any wise notwithstanding.

At

At the GENERAL ASSEMBLY of the Province of Nova Scotia, begun and holden at Halifax, on the Sixth Day of June, Anno Domini 1770, in the Tenth Year of the Reign of Our Sovereign Lord GEORGE the Third, of Great Britain, France, and Ireland, KING, Defender of the Faith, &c. being the First Session of the Fifth General Assembly convened in the said Province.

C A P. I.

An ACT for the Settlement of the Poor in the several Townships within this Province.

HEREAS it is necessary that the Poor in this Province should have some fixed Place of Settlement, to prevent their wandering about the Country, and that the Towns to which they do not properly belong, should not be put to the Expence of supporting them; Be it Enacted by the Governor, Council, and Assembly, That from and after the Publication hereof, no Town or Township within this Province, shall be obliged to maintain any poor Person or Persons, unless such Person or Persons be a Native of such Town or Township, or have served an Apprenticeship, or have lived as an hired Servant one whole Year, next before such Persons Application for Relief, or have executed some publick annual Office, or shall have been assessed and paid his or her Share of the Taxes for the Poor of such Place, or any publick Taxes during one whole Year, at one Time.

Eng. Stat. 45. Edit. cap. 2.

Preamble:

Description of Persons intitled to be maintained,

II. And it is hereby declared and Enacted, That every Person within the said Descriptions shall be intitled to a Settlement in the respective Towns or Townships wherein such Person or Persons shall be so qualified as aforesaid.

and intitled to a Settlement.

III. And be it further Enacted, That any Person or Persons who shall apply to the Overseers of the Poor for Relief, not having obtained a lawful Settlement in the Township, shall be required to declare on Oath before one of His Majesty's Justices of the Peace for the said Township or County wherein such Township shall be, his, her or

Persons applying for Relief to declare their last Place of Residence.

Overseers of the Poor to remove Persons belonging to Township where they serve.

In default, 2. Justices by Warrant to cause such Persons to be removed,

And the Overseers to pay all Charges.

If such Overseers have not Money in their Hands, to stand charged therewith until next Assessment.

Two Justices to bind out Persons begging or strolling.

Eng. Stat. 3. & 4. Will. & Mary, cap. 11.

Poor old blind, lame, and impotent Persons, to be relieved by their Parents or Children,

in Manner as by Sessions shall be ordered.

Eng. St. 5. Geo. 1. cap. 8.

their last place of Residence; and if they are found to have gained any lawful Settlement within this Province, a true Copy of the said Declaration, attested by the said Overseers of the Poor, and certified by the said Justice of Peace, together with the Amount of Expence incurred, shall be transmitted to the Overseers of the Poor of the Township to which the said Person or Persons shall belong, and in case they refuse or neglect to remove the said Person or Persons, and pay the Expences incurred, it shall and may be lawful for any Two of His Majesty's Justices of the Peace for the County or Township where such Person or Persons have become chargeable, by a Warrant under their Hands and Seals, to cause him, her, or them to be removed to the Township where they last obtained a lawful Settlement, and the Overseers of the Poor are hereby required to receive such Person or Persons, and to pay such Sum and Sums of Money as shall have been necessarily expended as aforesaid, to the Overseers of the Poor of the Township from whence such Person or Persons have been removed; *Provided always*, That in case such Overseer or Overseers of the Poor, shall not have Money in their Hands wherewith to answer said Expence, such Overseer or Overseers shall stand charged therewith, until the next Assessment to be made on the Township to which such poor Person shall belong.

IV. *And be it also Enacted*, That it shall and may be lawful for any two of His Majesty's Justices of the Peace, on Complaint of the Overseers of the Poor, to bind out any Person or Persons, who shall be found begging or strolling about, for any Term not exceeding one Year.

V. *And be it also further Enacted*, That the Father and Grand-Father, Mother and Grand-Mother, and the Children and Grand-Children, severally and respectively, of every poor, old, blind, lame, and impotent Person, or other poor Persons not able to work, being of sufficient Ability, shall at his, her, or their Charges and Expences, relieve and maintain every such poor Person as aforesaid, in such Manner as the Justices of the Peace at their *General or Quarter Sessions* shall order and direct, on the Penalty of forfeiting and paying Five Shillings for each Person so ordered to be relieved, for every Week they shall fail therein, to be sued for, levied and recovered in the usual Manner, and to be applied for the Use of the Poor.

VI. And Whereas it sometimes happens, that Persons run away, or abscond from their Places of Abode and legal Settlement, and leave their Wives and Families a Charge to the Public; although such Persons may have some Estate real or personal, whereby the Place might be eased in whole or in Part, which is most just and reasonable; *Be it therefore Enacted*, That it shall and may be lawful for the Overseer or Over-

Overseers of the Poor of any Township within this Province, where any Husband or Father shall absent from, and forsake his Wife and Children, or any Widow shall absent from, and forsake her Children, and leave them a public Charge; to apply to two Justices of the Peace, and by Warrant under the Hands and Seals of the said two Justices, to take and seize the Goods and Chattels, and let out and receive the annual Rents and Profits of the Lands and Tenements of such Husband, Father, or Mother so absconding as aforesaid, for and towards the maintaining, bringing up, and providing for such Wife, Child, or Children so left as aforesaid, and so soon as the said Seizure shall be allowed of, and confirmed by the Justices in their *General or Quarter Sessions* of the Peace, it shall and may be lawful for the said Overseers, or any two of them from Time to Time, and as the Case may require, to sell and dispose of so much and so many of the said Goods and Chattels at Public Sale, to the highest Bidder, and to apply the Money arising thereby towards the Maintenance of such poor Family so left as aforesaid.

Lands, Tenements and Effects of Parents or Husbands leaving their Children or Wives, liable to be taken for their Maintenance.

Overseers of the Poor to apply to 2 Justices.

Seizure to be allowed by Sessions.

Overseers then to sell and dispose of Goods and Chattels for that Purpose.

VII. *And be it further Enacted,* That in case of the Death of the Parents of any Child or Children, who have gained a Settlement in any Township as aforesaid, all and every such Child or Children, shall be supported by such Town or Township wherein the Parents so gained a Settlement

Children of Parents deceased, who have gained a Settlement, to be supported.

VIII. *And be it Enacted,* That if any Town or Township, or Person or Persons whatsoever, shall think themselves aggrieved by any Proceedings had in Virtue of this Act, such Town or Township, Person or Persons, may appeal for Redress to the next *General or Quarter Sessions* of the Peace held for the County wherein such Town or Township shall be, or wherein such Person or Persons shall reside; and the Justices thereof are hereby required and impowered to hear and determine all and every such Appeal or Complaint, and to give Redress as they in their Judgment shall think equitable, and such their Order and Judgment shall be final and bind all Parties.

Townships or Persons aggrieved may appeal to the Sessions.

C A P. II.

An Act for regulating the Commons belonging to the several Townships in this Province.

HEREAS it is necessary, that some Regulations should be made respecting the Tracts of Land set apart for Common, in the several Townships in this Province;

Preamble.

I, B:

Justices in Sessions to make Regulations for the several Townships in respect to the Commons.

I. Be it Enacted by the Governor, Council, and Assembly, That the Justices in their several General Sessions of the Peace, to be held for the several Counties in this Province, shall from Time to Time affix and settle such Regulations as they may think most proper and convenient to be observed and followed by the Inhabitants in the several Townships within such County, and such Regulations so made, affixed, and settled, shall be and are hereby declared to be the stated Rules to be kept, observed, and followed, by the Inhabitants of each respective Township, in regard to the Common belonging to the same.

Penalty on such as transgress the Regulations so made;

how to be applied,

in default of payment, to be committed to Goal.

II. And be it also Enacted, That if any Person shall transgress any such Rules and Regulations so to be settled and affixed, or shall neglect or refuse to obey the same, such Person shall forfeit and pay a Fine not exceeding Forty Shillings for every such Offence, and in case such Offender shall refuse or neglect to pay the Fine, then it shall and may be lawful for any Two of His Majesty's Justices of the Peace, to grant a Warrant of Distress for levying the same in the usual Manner, one Half to be to the Person complaining, and the other Half for the Use of the Poor of the Township where the Offence shall be committed, and in default of such Distress, to commit such Offender for any Space not exceeding ten Days.

C A P. III.

An Act for establishing the Rate of Interest.

Eng. Stat. 37. Hen. 8. cap. 9.

No greater Interest than 6 per Ct. per Annum to be taken;

if more is taken, Bonds, Contracts, &c. to be void;

Persons who shall take more on any other Contract for Goods, &c.

***** E it Enacted by the Governor, Council, and Assembly, That
* B * no Person or Persons whatsoever, upon any Contract which
* * * shall be made, shall take directly or indirectly, for Loan
***** of any Monies, Wares, Merchandize, or other Commodities whatsoever, above the Value of Six Pounds, for the Forbearance of One Hundred Pounds for a Year, and so after that Rate for a greater or lesser Sum, or for a longer or shorter Time; and that all Bonds, Contracts, and Assurances whatsoever, for Payment of any Principal or Money to be lent or covenanted to be performed upon or for any Usury, whereupon or whereby there shall be reserved or taken above the Rate of Six Pounds in the Hundred as aforesaid, shall be utterly void, and that all and every Person or Persons whatsoever, which shall, upon any Contract to be made, take, accept, and receive, by Way or Means of any corrupt Bargain, Loan, Exchange, Chey-zance, Shift, or Interest of any Wares, Merchandize, or other Thing or Things whatsoever, or by any deceitful Way or Means, or by any Covin, Engine, or deceitful Conveyance, for the forbearing or giving Day of Payment for One whole Year, of and for their Money or other Thing,

Thing, above the Sum of Six Pounds for the forbearing of One Hundred Pounds for a Year, and so after that Rate for a greater or lesser Sum, or for a longer or shorter Time, shall forfeit and lose for every such Offence, the treble Value of the Monies, Wares, Merchandize, and other Things so lent, bargained, exchanged, or shifted; one Moiety thereof to be to the King's most Excellent Majesty, His Heirs and Successors, for the public Use of this Province, and the Support of the Government thereof, and the other Moiety to him or them that will sue for the same in any of His Majesty's Courts of Record in the same County where the Offence shall be committed, and not else where, by Action of Debt, Bill, Plaint, or Information, in which no Essoign, Wager of Law, or Protection shall be allowed.

to forfeit treble Value;

Application of the Penalty,

how to be recovered.

II. *Provided*, That nothing in this Act shall extend or be construed to extend to any Specialty, Hypothecation, Instrument or Agreement in Writing, that shall be made, entered into, or executed, for any Money lent or advanced, upon the Bottom of any Ship or Vessel, any Thing to the contrary notwithstanding.

Exceptions.

III. *Provided also*, That all Contracts and Agreements upon Loan at Interest upon any other Rate heretofore made than is prescribed by this Act, shall be good, valid, and effectual to all Intents and Purposes whatsoever, in the same Manner as if this Act had not been made.

Proviso that all Contracts, &c. upon Loan at Interest heretofore made, shall be good.

IV. 15. Geo. 3. Ch. 1. *Be it Enacted by the Governor, Council and Assembly*, That from and after the Publication hereof, it shall and may be lawful for any Person or Persons to contract and agree for the Loan or Hire of any Quantity of Grain and Number of Cows, Horses, Oxen, Heiffers, Sheep, Swine or any other kind of Stock of Cattle or Grain upon Halves or otherwise, as the Lender or Hirer may agree, upon the Lenders taking the Risk of all such Cows, Horses, Oxen, Heiffers, Sheep, Swine or any other Kind of Live Stock upon himself, unless it doth or can be made appear, that the said Stock so lent, perish'd, and was lost thro' the wilfull Neglect of the Borrower, or that the said Borrower sold or converted the said Stock to his own Use, in which Case the Borrower shall make good to the Lender the full Value thereof; and that such Dealings was not, nor shall be accounted Usury.

After Publication of this Act it shall be lawful for any Person to contract and agree for the loan or hire of Cattle, &c.

V. *Be it Enacted*, That all Prosecutions hereafter to be brought for any Offence already done or committed, or which may hereafter be done or committed against the said Act, shall be brought by the Person or Persons aggrieved, or by any Person who may sue for the same within twelve Months for the Time the Offence was committed: and it shall and may be lawfull for any Person or Persons, who shall think themselves aggrieved by any Judgment of any Inferior Court, to bring his Writ of Error, or Appeal to His Majesty's Supreme Court.

All Prosecutions to be brought within Twelve-months.

Persons aggrieved at any judgment of Inferior Court to bring Writ of Error or Appeal to Supreme Court.

C A P. IV.

An Act for establishing the Toll to be taken at the several Grift-Mills in this Province.

Toll for Grinding Wheat, Rye, Barley, Oats, and Indian Corn, to be 1-16th.

Be it Enacted by the Governor, Council, and Assembly, That
B *the Toll to be taken by every Miller for grinding Wheat, Rye, Barley, Oats, and Indian Corn, shall be One Sixteenth Part, and no more, to be ascertained by a sealed Measure.*

Millers taking greater Toll, to forfeit 40s. For the Use of the Poor, and recover'd before 2 Justices. Value of Grain taken more, to be recovered in like Manner.

II. *And be it also Enacted, That if any Miller shall take any greater Toll than is herein directed to be taken, he shall forfeit and pay the Sum of Forty Shillings, to be paid to the Overseers of the Poor of the Township wherein the Offence shall be committed, or of the Township most contiguous thereto, for the Use of the Poor, and be recovered before two of His Majesty's Justices of the Peace, and the Amount of the Value of so much Grain or Meal as shall have been taken more than the Toll herein prescribed, shall also be recovered in like Manner.*

Millers not obliged to grind Grain not clean, dry, and in good Order.

III. *Provided always, That no Miller shall be obliged to receive and grind any Corn or Grain which shall not be clean, dry, and in good Order.*

Toll for bolting the Meal of Wheat, Rye or Buck-Wheat to be one Pint per Bushel.

IV. 21. Geo. 3. Ch. 6. *Be it Enacted by the Lieutenant Governor, Council and Assembly, That every Miller, who keeps a Bolting-Mill, shall be obliged to bolt the Meal of all Wheat, Rye or Buck-Wheat, ground at his Mill, when required; and that the Toll to be taken for the same, shall not exceed one Pint per Bushel. And any Miller refusing to comply herewith, shall be subject to the Penalty specified in the afore-recited Act, and the same shall be paid, levied and applied, as directed in said Act.*

C A P. V.

An Act for the Benefit of the Fishery on the Coasts of this Province.

Preamble:

HEREAS *it is apprehended that the frequent Scarcity of Fish on the Banks near the Shores of this Province, may be occasioned by Fishermen throwing into the Sea the Offal of the Fish they kill; For Remedy whereof.*

I. *Be it Enacted by the Governor, Council, and Assembly,* That from and after the Publication hereof, if any Fisherman in any Vessel, Bark, or Boat, shall presume to throw into the Sea within three Leagues of any of the Shores of this Province, any Heads, Bones, or other Offal of the Fish they may take, the Master of such Fishing Vessel, Bark, or Boat, shall, upon due Conviction thereof, by the Oath of one credible Witness, before any one of His Majesty's Justices of the Peace, or by the View of the said Justice, pay for each and every such Offence the Sum of Five Pounds.

No Heads, Bones, or other Offal of Fish to be thrown into the Sea within 3 Leagues of the Shore.

Master to forfeit £5.

Conviction before One Justice, or by his own View.

II. *And be it further Enacted,* That all Penalties incurred and arising by this Act, shall be applied one Moiety to the Person who shall inform and sue for the same, the other Moiety to be paid into His Majesty's Treasury for the Use of the Province, the same to be levied by Distress and Sale of the Offender's Goods and Chattels, together with the Charges of such Distress and Sale, rendering the Overplus (if any be) to the Owner or Owners thereof.

Half to the Person informing and suing, Half to His Majesty for the Use of the Province.

III. *Provided nevertheless,* That nothing in this Act shall extend to the debarring any Fishermen in Boats, who split and dress their Fish on Shore, from throwing the Offal of their Fish into what is called the Land-Wash.

Boats who split and dress Fish on Shore, may throw Offal into Land Wash.

At the GENERAL ASSEMBLY of the Province of *Nova Scotia*, begun and holden at *Halifax*, on the Sixth Day of *June*, Anno Domini 1770, in the Tenth Year of the Reign of our Sovereign Lord GEORGE the Third, of *Great Britain, France, and Ireland*, KING, Defender of the Faith, &c. and there continued by several Prorogations until the Fifth Day of *June*, 1771, in the Eleventh Year of His said Majesty's Reign; being the Second Session of the Fifth *General Assembly* convened in the said Province.

C A P. I.

An ACT for the more effectually securing the Title of Purchasers against Claims for Dower.

Preamble.

 * W *
 * * *

 HEREAS some Doubts have arisen concerning the Conveyance of Dower by the Wife in her Husband's Life Time in the Manner and Form now in Practice, in Order therefore to prevent any Difficulty that may hereafter arise touching the same.

Wife assigning
 Dower to be Examined before a Justice of the Peace.

I. Be it Enacted by the Governor, Council and Assembly, That where a Sale shall be made of Lands or Tenements by the Husband and his Wife, before such Deed shall be valid and sufficient to bar the Wife from the Recovery of her Dower after the decease of her Husband, she shall be examined by One of His Majesty's Justices of the Peace, whether she hath done the same freely, voluntarily and without Compulsion from her Husband, and if before such Justice she shall declare, that she hath Freely and Voluntarily signed such Deed, and therein Assigned her Right of Dower, the Justice shall accordingly certify such Acknowledgments on the Deed, which shall for ever Bar her from the Recovery of her Right of Dower to such Lands so Conveyed.

Justice to certify on the Deed.

Nothing in this Act to affect any Deed before made.

II. Provided always, That nothing in this Act contained, shall any Ways affect any Deed or Conveyance of Land heretofore made.

At the GENERAL ASSEMBLY of the Province of Nova Scotia, begun and holden at Halifax, on the Sixth Day of June, Anno Domini 1770, in the Tenth Year of the Reign of Our Sovereign Lord GEORGE the Third, of Great Britain, France, and Ireland, KING, Defender of the Faith, &c. and there continued by several Prorogations until the Ninth Day of June, 1772, in the Twelfth Year of His said Majesty's Reign, being the Third Session of the Fifth General Assembly convened in the said Province.

C A P. I.

An Act declaring what shall be deemed Merchantable Timber for Exportation to *Great-Britain*.

W **HEREAS** the improving and securing the Lumber Trade from this Colony to Great-Britain, will be highly beneficial, not only to the Mother Country, but also to this Province, and whereas certain Regulations relating to the Exportation of Square Timber are found to be necessary;

Preamble.

I. *Be it therefore Enacted by the Lieutenant Governor, Council and Assembly,* That no Hewn Timber shall be deemed merchantable, or offered for Sale for the British Market as such, unless the same is Sound, properly squared, and not less than Ten Inches Square, and free of Bark, and the Surveyors of Lumber are hereby directed to Survey, measure and mark the same, and none other, for the British Market, before the same shall be shipped for Exportation, for which such Surveyor shall receive *Three Pence* per Ton and travelling Charges.

No hewn Timber shall be deemed merchantable or offered for Sale unless sound, &c. Surveyors of Lumber directed to survey, measure and mark no other for British market.

II. *And be it further Enacted,* That where any Contract or Bargain shall be made for any Quantity of Timber for the British Market, the same shall be understood to be according to the Directions of this Act, and no Merchant or Trader in Lumber shall be obliged to take any other, unless by particular Agreement first made for the same.


Where Contract is made for Timber for British market, to be understood to be according to the directions of this Act.

At the GENERAL ASSEMBLY of the Province of *Nova Scotia*, begun and holden at *Halifax*, on the *Sixth Day of June, Anno Domini 1770*, in the Tenth Year of the Reign of Our Sovereign Lord **GEORGE** the Third, of *Great Britain, France and Ireland*, **KING**, Defender of the Faith, &c. and there continued by several Prorogations until the Twelfth Day of *October, 1773*, in the Thirteenth Year of His said Majesty's Reign; being the Fourth Session of the Fifth *General Assembly* convened in the said Province.

C A P. I.

An ACT to empower the Province Treasurer to issue other Notes in Exchange for such Notes as have been issued heretofore, in Virtue of the several Loan Acts made by the *General-Assembly* of this Province, and are defaced and worn.

Preamble.

 *HEREAS* it has been represented, that several Persons who now possess Notes for Sums borrowed in Pursuance of the several Loan Acts made by the *General Assembly* of this Province, labour under great Inconvenience by Reason that many of the said Notes are defaced and worn, and some would prefer to have large Notes in lieu of a Number of small Ones, or to have the same exchanged, For Remedy whereof.

The Treasurer to take up and receive Notes defaced and worn, and to give receipts in form following.

I. *Be it Enacted by the Governor, Council and Assembly*, That the Treasurer of the Province be, and he is hereby empowered and directed, on Application made to him for that Purpose, to take up and receive all such Notes for Money borrowed as aforesaid, and in Lieu thereof to give Receipts in the Form following,

PROVINCE NOVA-SCOTIA the Day of

“ **R**ECEIVED of the Sum of for the Use and
 “ Service of the Province of *Nova-Scotia*, and in Behalf of
 “ said Province, I do hereby promise and oblige myself, and succes-
 “ sors in the Office of Treasurer to repay the said or Order
 “ the Day of the aforesaid Sum of with In-
 “ terest at the Rate of Six Pounds per *Centum* per *Annum*.

“ This Note being in Lieu of worn and defaced Notes heretofore
 “ issued from the Treasury, amounting to the like or same Sum and
 “ now cancelled. Witness my Hand.

Or in the following Form, at the Option of the Person who shall bring in such Notes or Receipts to be exchanged.

PROVINCE of *Nova-Scotia* the

“ **R**ECEIVED of the Sum of for the Use and
 “ Service of the Province of *Nova-Scotia*, and in Behalf of
 “ said Province, I do hereby promise and oblige myself and Succes-
 “ sors in the Office of Treasurer, to repay the said or Bearer
 “ the Day of the aforesaid Sum of with Interest,
 “ at the Rate of Six Pounds per *Centum* per *Annum*.

“ This

“ This Note being in Lieu of worn and defaced Notes heretofore
 “ issued from the Treasury, amounting to the like or same Sum, and
 “ now cancelled. Witness my Hand.

II. *And be it further Enacted*, That all Receipts so issued by the Treasurer of the Province, shall, according to the Tenor thereof, bear an Interest at the Rate of Six Pounds per *Centum per Annum*, and so in Proportion for a greater or lesser Sum, and all such Receipts so given, shall be dated on the Day following the Day to which the Interest due on such Notes or Receipts brought in as aforesaid was paid.

Such Notes to bear interest.

III. *And be it also further Enacted*, That all Notes brought into the Treasury as aforesaid, and for which Receipts shall be given in Pursuance of this Act shall be cancelled in Presence of such Persons as shall be appointed by the Governor, Lieutenant Governor, or Commander in Chief of the Province, and all new Notes issued in Pursuance of this Act, shall be counter-signed by them, or at least two of them.

Notes brought in, to be cancelled in presence of Person to be appointed by the Governor.

IV. *And be it Enacted*, That when Notes of different Dates are brought to the Treasury to be exchanged for new Notes, the Interest in that Case shall be calculated upon each Note to the Day the new Note shall be dated; and the Treasurer shall pay said Interest and not include such Interest in any new Note so issued.

When Notes are brought in to be exchanged, the interest to be calculated to the day the new Note is dated; and not included in new Note issued.

V. 16. *Geo. 3. Ch. 2. Be it Enacted, by the Lieutenant Governor, Council and Assembly*, That from and after the publication of this Act, all Possessors of Treasurer's Notes and Warrants on the Treasury, bearing Interest, now out standing, shall, and they are hereby required to Exchange all such Notes and Warrants at the Treasury, for new Notes, in such Sums as the Possessors shall choose, to bear Date the first day of *November*, and the first day of *May*.

Treasurer's Notes & Warrants on the Treasury bearing Interest to be exchanged for new Notes bearing Date First November and First May.

VI. *Sec. 2. And be it also Enacted*, That the Treasurer shall, and he is hereby required, to issue such new Notes in Exchange for such Notes or Warrants as shall be brought to him for that Purpose, and to Date the same at the Periods afore-mentioned, and shall give Receipts or Certificates for all the Interest which shall be due on such Notes or Warrants so received, which shall entitle the Bearer thereof to the Payment of such Interest.

The Treasurer to issue new Notes in Exchange for all such Notes or Warrants as are brought to him, and give Receipts or Certificates for the Interest due thereon.

VII. *Sec. 3. And be it also further Enacted*, That all such Possessors of Notes and Warrants as shall not choose to exchange the same in Manner as herein directed, shall nevertheless be obliged to comply with the Directions prescribed by this Act, in the receiving the Interest due on such Notes or Warrants, which shall be calculated to the Periods herein limited, and be paid accordingly.

Such Possessors of Notes, &c. as shall not choose to exchange them, shall comply with the Directions prescribed in receiving Interest.

VIII. *Sec. 4.*

All Possessors of Notes, &c. shall receive the Interest on producing the Notes, &c.

Notes brought to the Treasury for which new Notes are given to be cancell'd as directed by Act. Geo. 3. cap. 1. and the new Notes counter sign'd.

VIII. *Sec. 4. And be it Enacted,* That all Possessors of Notes and Warrants on the Treasury bearing Interest, shall receive the Interest due thereon, on their producing to the Treasurer such Note or Warrant, any Law, Usage or Custom to the contrary notwithstanding.

IX. *Sec. 5. And be it also Enacted,* That all Notes or Warrants brought to the Treasury as aforesaid, and for which new Notes or Receipts shall be given in Pursuance of this Act, shall be cancelled as is directed by the 13. Geo. 3. Ch. 1. and the new Notes shall be counter signed in Manner therein-mentioned.

C A P. II.

An ACT for the rating and levying the Expences attending the executing Writs of Partition.

Preamble.

HEREAS Difficulties may arise in the Recovery of the W Charges and Expences attending the executing Writs of Partition, unless the same is enforced by Law;

All Accounts of charges on obtaining writs of partition to be laid before the Supreme Court, and when approved, two or more assessors to be appointed.

amount to be levied out of the profits &c. of Proprietor or person in possession of lands, and paid to person appointed by the Court.

If Proprietor or person in possession refuses or neglects to pay sum assess'd, the same may be levied by distress.

I. *Be it Enacted, by the Governor, Council and Assembly,* That all Accounts of Charges and Expences, which have already arisen, or which may hereafter arise, for the obtaining and executing Writs of Partition for the Division of Lands in any Township or Place in this Province, until final Judgment thereon, together with the Charges for Surveying the said Lands, and all other incident Expences relative thereto, shall be laid before his Majesty's Supreme Court, and when the same shall have been approved by the said Court, two or more proper Persons shall be appointed by the Court to assess the Amount thereof, in due Proportion on each several Share allotted and assigned to each and every Proprietor, and be levied out of the Profits and other extendible Goods and Chattels thereon, or belonging to such Proprietor or Person in Possession of the same, or any Part thereof, and shall be paid to the Person or Persons appointed by the Court to receive the same.

II. *And be it Enacted,* That if any Proprietor or other Person in Possession of any Land allotted and assigned as aforesaid, shall refuse or neglect to pay the Sum assessed as his Dividend or Proportion of the Charges aforesaid; It shall and may be lawful for any one of his Majesty's Justices of the Peace, on Complaint of the Receiver appointed as aforesaid, to issue a Warrant of Distress and Sale of the Delinquent's Goods and Chattels for the Recovery of the Sum so assessed with the Charges of Prosecution.

III. *And*

III. *And be it also Enacted*, That in Case no Person be resident on any Lands allotted and assigned as aforesaid, nor any Goods and Chattels thereon, whereby the Sum due as aforesaid may be levied, it shall and may be lawful for any one of his Majesty's Justices of the Peace to let out any Part of such Delinquents Lands as may be sufficient to pay, by the Produce of the same, any such Dividend, Proportion or Charge so due, and in case no Person shall offer to hire the same, such Lands shall be held chargeable therewith.

In case no person resident on lands no goods or chattels thereon whereby assessment may be levied, the lands to be let or held chargeable.

At the GENERAL ASSEMBLY of the Province of *Nova Scotia*, begun and holden at *Halifax*, on the Sixth Day of *June*, *Anno Domini* 1770, in the Tenth Year of the Reign of our Sovereign Lord GEORGE the Third, of *Great Britain, France, and Ireland*, KING, Defender of the Faith, &c. and there continued by several Prorogations until the Sixth Day of *October*, 1774, in the Fourteenth Year of His said Majesty's Reign; being the Fifth Session of the Fifth *General Assembly* convened in the said Province.

C A P. I.

An Act to prevent Waste and Destruction of Pine or other Timber Trees, on certain reserved and ungranted Lands in this Province.

HEREAS His Majesty has been pleased to reserve, and set apart several Tracts of Land within this Province, for the special Purpose of securing to the Crown, a Perpetual Fund for the Supply of Masts, and Ship Timber for the Royal Navy, particularly all those Lands on St. John's River above the present Settlements, and the Island of Cape Breton.

Preamble.

In Order therefore, that the same be effectually secured against any Waste or Trespas.

If any Person spoil, cut down or destroy &c. any Pines or other Timber growing on reserv'd and ungranted Lands, or carry off any Timber.

unless by License from the Governor certifying that the same is for his Majesty's use.

Such Person being convicted thereof.

shall pay a Fine not exceeding £100. to be recover'd in any Court of Record.

Offender unable to pay Fine shall be imprisoned Six Months.

without Bail.

If any Person shall purposely and maliciously set fire to any place within the limits of reserved and ungranted Territories, and thereby destroy Timber, &c. on Conviction shall suffer as a Felon.

This Act not to extend to Firewood & underwood used in the Fishery and within half Mile of Sea Shore.

Persons inhabiting the Island of *Cape Breton* and such as are employed in the Fishery may cut down and use such wood as shall be necessary for Fuel and the Fishery.

I. *Be it Enacted, by the Governor, Council and Assembly,* That if any Person shall spoil, cut down, or any otherwise injure, or destroy any Pines of any Dimensions whatever, or any other Timber Trees, growing on the afore-recited reserved and ungranted Lands, or shall cause the same to be done, or shall cut down, or carry off any Tree fit for a Mast, from the said Premises for every Tree so cut or carried off, and for each and every Offence, or without having first obtained a License therefor, from the Governor, Lieutenant Governor, or Commander in Chief, for the Time being, certifying that the said Pine Trees, and Timber so to be cut, are for the sole Use of His Majesty and for no other Purpose. All such Persons being duly convicted of the Waste and Trespas aforesaid, he or they shall forfeit and pay to His Majesty a Fine not exceeding One Hundred Pounds on due Conviction thereof, before any of His Majesty's Courts of Record, in any County within this Province, by Action of Debt, Bill, Plaint, or Information, one Half of the said Fine to be paid to the Informer, the other Half to His Majesty for the Use of the Province.

II. *And be it further Enacted,* That if such Offender on due Conviction, shall be unable to pay such Fine, that it shall and may be lawful for such Court, before which the Conviction shall be made to imprison such Offender, for the Space of Six Months without Bail or Mainprize.

III. *And Whereas the setting fire to any Wood Lands, is often attended with great Destruction of Timber Trees and otherwise destroys and prevents their Growth; Be it Enacted, by the Authority aforesaid.* That if any Person shall purposely & maliciously set fire to any Places within the Limits of the aforesaid reserved & ungranted Territories, and thereby destroy any of the young Growth, or Timber Trees thereon, upon due Conviction before his Majesty's Supreme Court, Court of Assize and General Goal Delivery, such Crime shall be adjudged Felony, and such Person so convicted shall suffer as a Felon.

IV. *Provided,* That nothing in this Act shall be construed to extend to such Fire Wood and underwood as is commonly used in the Fishery, and shall be within Half a Mile of the Sea Shore.

V. 15. *Geo. 3. Ch. 1. Sect. 2. Be it Enacted, by the Governor, Council and Assembly,* That any Person or Persons inhabiting the Island of *Cape Breton* and such as are employed in and about the Fishery may cut down and use such Wood as shall be necessary for Fuel and the Purposes of the Fishery, & such Persons shall not be liable to the Penalties of any former Act, altho' it should be beyond the line therein prescribed, any Thing to the contrary in said Act notwithstanding.

C A P. II.

An Act for admitting Depositions *de bene esse*, of Witnesses aged, Infirm, and otherwise unable to travel, and of Witnesses departing from the Province.

E it Enacted, by the Governor, Council and Assembly, That *B* when it shall so happen that any of the Witnesses which shall be judged necessary to be produced on the Trial of any Cause between Party and Party, shall be infirm, aged, or otherwise unable to travel, or when any such Witness or Evidence is obliged to leave the Province, it shall and may be lawful for any One of the Judges of the Court where the Cause is to be tried, on due Notice given to the adverse Party to be present (if he sees fit) to take the Deposition of such Infirm or aged Person, or Persons unable to travel, or who is obliged to leave the Province, and such Depositions so taken and certified under the Hand and Seal of the said Judge and sealed up, and directed to such Court, shall be received as legal Evidence in such Cause.

II. *Provided*, That Proof be made on Oath, that due Notice was given to the adverse Party of the Time and Place of taking such Depositions.

III. *And provided nevertheless*, That if such Witnesses shall at the Time of the Trial of the Cause, be in the Province, or able to travel, they shall be required to give their Testimony *viva voce*, at such Trial, in the same Manner, as if such Depositions had not been taken.

IV. *Provided also*, That all Benefit of Exceptions to the Credit of such Deponents shall be reserved in the same Manner as on producing Witnesses for Examination, *viva voce*, at the Trial.

V. *And be it Enacted*, That every Person of the Profession of the People called Quakers, who shall be required to take an Oath as aforesaid, shall instead of an Oath be permitted to make his or her Solemn Affirmation.

VI. *And be it also Enacted*, That every Person who shall have made such Oath or Solemn Affirmation, and shall be convicted of wilfully, falsely and corruptly having sworn or affirmed any thing, shall incur the same Penalties as Persons convicted of wilful and corrupt Perjury.

When it shall happen that Witnesses in a Cause are infirm, aged or unable to travel, or obliged to leave the Province.

One of the Judges on due Notice given to adverse Party may take the Deposition of such Witnesses, which shall be Sealed up and directed to the Court where Cause is to be tried.

Oath to be made of Notice given to adverse Party.

If such Witness is in the Province or able to travel testimony *viva voce* required.

Saving benefit of exceptions to the Credit of such Witnesses.

Quakers allowed to make Affirmation.

Persons convicted of Swearing or affirming falsely to incur Penalties as for perjury.

C A P. III.

An Act for punishing Rogues, Vagabonds, and other idle and disorderly Persons.

Act 7th, Geo. 2.
cap. 5.

All Soldiers belonging to his Majesty's Troops, Seamen or Mariners belonging to his Majesty's Ships or Vessels not having a Pass from their Commanding Officer.

All idle and wandering Persons not having a Pass from a Justice of Peace,

shall be deemed idle and disorderly Persons.

All Persons who run away or threaten to run away and leave their Wives, &c. on any Township, or Persons unlawfully returning to Places from whence they have been removed, and other idle Persons, and Persons begging Alms, deemed idle and disorderly Persons, and shall be committed to Prison or House of Correction.

Lawful for any Person to apprehend Offenders.

If Constable or other such Officer refuse or neglect to apprehend them deemed a neglect of Duty and punished. If any Person being charged by a Justice, where no Officers can be found refuse or neglect to apprehend such Offender to forfeit 10s.

***** *E it Enacted, by the Governor, Council and Assembly,* That
 * * * * * *B* * * * * * all Soldiers belonging to His Majesty's Troops in this Province, or Seamen or Mariners belonging to any of His Majesty's Ships or Vessels, who shall be travelling or wandering within the said Province, and shall not have a Pass from the Commanding Officer of the Regiment, Company or Ship or Vessel, to which they belong; and all idle and wandering Persons, who shall not have a Pass, or Testimonial from some Justice of the Peace, setting forth, the Place from whence such Soldier, Seamen or Mariner, or such other idle and wandering Person shall have come, and the Place to which they are to pass; every such Soldier, Mariner or Seamen or other Person, shall be deemed idle and disorderly Persons, and shall be proceeded against, as is herein after directed.

II. *And be it also Enacted,* That all Persons who run away, or threaten to run away, and leave their Wives or Children upon any Township, and all Persons who unlawfully return to such Township, or Place from whence they have been legally removed by order of two Justices of the Peace, without bringing a Certificate from the Township whereunto they belong, and all Persons who not having wherewith to maintain themselves, live idle and refuse to work for the usual Wages, and all Persons going about to beg Alms, shall be deemed idle and disorderly Persons; and it shall be lawful for any Justice of Peace to commit such Offenders (being convicted by his own View or by Confession, or by the Oath of one credible Witness) to prison, or to the House of Correction, there to be kept to hard Labour for any Time, not exceeding one Month.

III. *And be it also further Enacted,* That it shall be lawful for any Person to apprehend Offenders against this Act, and convey to some Justice of Peace, the Persons so apprehended, to be proceeded against as is herein after directed, and in Case any Constable or other such Officer refuse or neglect to use his best Endeavours to apprehend or convey to the same Justice any such Offender, it shall be deemed a Neglect of Duty, and he shall be punished as is herein after directed; and in Case any other Person charged by any Justice so to do, refuse or neglect to use his best Endeavours to apprehend and deliver to the Constable, or such other Officer, or to carry such Offender before some Justice, where no Officer can be found, being convicted upon View, or by the Oath of one Witness before a Justice, he shall forfeit Ten Shillings to the Use of the Poor of the Township, to be levied

levied by Distress and Sale of Goods by Warrant from any Justice, and in Case any Person not being a Constable or Officer, apprehend any Deserter or idle wandering Servant, or other Person, and deliver him to a Constable or convey him to a Justice, or if any Constable so apprehend and convey such Deserter or idle wandering Servant, or other Person, it shall be lawful for such Justice to reward any such Constable or other Person, by making an Order under his Hand and Seal on the Treasurer of the County to pay Ten shilling to the Person so apprehending him on producing such Order and giving a Receipt, and the Justices at the *General Sessions*, shall allow the same to such Treasurer in his Accounts, upon his producing the Vouchers aforesaid.

IV. *And be it Enacted*, That any One or more Justices of the Peace on receiving Information, that Deserters or any idle and disorderly Persons are in any Place within his or their Jurisdiction, shall issue his or their Warrant to the Constables to search for and apprehend such Deserters or idle and disorderly Persons, and in Case any Person apprehended upon any such Search be charged before such Justice or Justices with being a Deserter from His Majesty's Navy, or Army, or an idle and disorderly Person, or with Suspicion of Felony (altho' no direct Proof be then made thereof) to examine such Person, not only as to the Place from whence he came, and where he was last legally settled, but also, as to his Manner of livelihood, the Substance of which Examination shall be put in Writing and be signed by the Person so examined, and the said Justice or Justices shall sign the same and transmit it to the next *General Sessions of the Peace* for the County, or *Special Sessions* for the District where such Justice or Justices reside, to be filed and kept on Record, and if such Person should not make it appear to such Justice or Justices, that he is not a Deserter, and that he has a lawful Way of getting his Livelihood by Labour or otherwise, or procure not some responsible House-keeper to appear to his Character, and give Security for his Appearance before such Justice or Justices, at some other Day (in Case the same be required) said Justice or Justices shall commit such Person to some Prison or House of Correction for any Time not exceeding Fourteen Days, and in the mean Time to order the Overseers of the Poor of the Township or Place, in which such Person is apprehended, to insert Advertisement in the public News Paper, describing such suspicious Person, and any Thing found upon him or in his Custody, and which he is suspected not to have come honestly by, and mentioning the Place to which such Person is committed, and specifying when and where such Person is to be again brought before the said Justice or Justices to be examined, and if no Accusation be then laid against him, such Person shall be discharged, or otherwise dealt with according to law.

If any Person not being a Constable apprehend Deserters or idle wandering Servants, &c. and deliver him to a Constable or convey to a Justice; or Constable so apprehend such Deserter &c.—to be rewarded by such Justice.

Justices receiving information that Deserters or idle Persons are in any Place within their Jurisdiction shall issue a Warrant for a Search.

Proceedings in regard to Persons apprehended.

Penalty on Officers
not doing their
duty,

and on Persons hin-
dering the execu-
tion of this Act or
rescuing Prisoners.

to be levied by Dis-
tress and Sale, &c.

V. *And be it also further Enacted*, That if any Constable or other Officer, or Master of any House of Correction be negligent in his Duty in the Execution of this Act, or in Case any Person disturb the Execution of this Act, or rescue any Person apprehended or passing by Virtue thereof, or be assisting to his or her Escape, and be convicted thereof upon the Oath of one credible Witness before one Justice of the Peace, where such offence is committed, the Person so offending, for every such Offence, shall forfeit any Sum not exceeding *Five Pounds*, nor less than *Ten Shillings*, to the Use of the Poor of the Township, to be levied by Distress and Sale of the Offenders Goods, by warrant from such Justice, and if sufficient Distress cannot be found, it shall be lawful for such Justice to commit the Persons so offending to Prison, or to the House of Correction, there to be kept to hard Labour for any Time not exceeding two Months.

Penalty for shelter-
ing Deserters, &c.

VI. *And be it Enacted*, That if any Person shall knowingly permit any Deserter or idle and wandering servant or Vagabond to lodge in his or her House, Barn or other Outhouse or Buildings, and shall not apprehend and carry such Deserter or idle Servant or Vagabond before some Justice, or give Notice to some Constable or other Officer so to do, such Person being thereof convicted, either on Confession or upon Oath of one credible Witness, before a Justice where such offence is committed, shall forfeit any Sum not exceeding *Forty Shillings*, nor less than *Ten Shillings*, one Moiety to the Informer, and the other Moiety to the Poor of the Township, to be levied by Distress and Sale of Goods by Warrant from such Justice, and if any Charge be brought upon any Township or Place by Means of any such Offence, the same shall be answered to the said Township by such Offender, and be levied by Distress and Sale of goods, and if sufficient Distress cannot be found, such Offender shall be committed to prison or to the House of Correction by the Justice for any Time, not exceeding one Month.

Provided, That any Person who shall have been prosecuted and fined on the Act of Parliament for concealing or harbouring Deserters shall not be again prosecuted for the same, on this Act.

Lunatics to be con-
fined by Warrant
of Justices.

VII. *And be it also Enacted*, That where Persons by Lunacy or otherwise, are furiously mad, and dangerous to be permitted to go abroad, it shall be lawfull for two Justices where such Lunatic is found, by Warrant directed to the Constables, Church Wardens and Overseers of the Poor of the Township or Place, to Cause such Person to be apprehended, and kept safely locked up in some secure Place within the County, as such Justices direct, and if such Justices find it necessary to be there chained, if the last legal Settlement of such Person be in any Place within such County, and if such Settlement be not there, such Person shall be sent to the Place of his last legal

legal Settlement by a pass, and shall be locked up and chained by Warrant of two Justices of the County to which such Person is to be sent, and the Charges of removing and maintaining and curing such Person during such restraint (which shall be for such Time only as such Madness continues) shall be paid, being first proved upon Oath, by Order of two Justices directing the Church Wardens or Overseers of the Poor, where any Goods, Lands or Tenements of such Person be, to seize and sell so much of the Goods or receive so much of the Rents of the Lands as is necessary to pay the same, and to account for what is so seized, sold or received to the next *Sessions of the Peace*; but if such Person hath not an Estate to pay the same over and above what is sufficient to maintain his or her Family, then such Charge shall be paid by the Township or place to which such Person belongs, by Order of two Justices, directed to the Church Wardens or Overseers.

Goods & Estates of Lunatics to be seized to pay the Charge of their maintenance.

Otherwise at the Charge of the Township or Place.

VIII. *Provided*, That nothing herein contained, shall extend or be construed to extend to abridge the prerogative of his Majesty, or of the Chancellor, concerning such Lunatics, or restrain any Friend or Relation of such Lunatics from taking them under their own Care.

Provido.

IX. *And be it also further Enacted*, That if any Person or Persons shall be sued for any Matter or thing, which he or they shall do in Execution of this Act, he or they may plead the General issue, and give the special Matter in Evidence, and if a Verdict shall pass for the Defendant or the Plaintiff shall be non suited, or discontinued his Suit, the Defendant may recover treble Costs.

Persons sued for any thing done in execution of this Act may plead general issue.

Treble Costs recovered.

C A P. IV.

An Act to empower the Supreme Court to issue Writs of Certiorari.

Be it Enacted by the Governor, Council and Assembly, That the Supreme Court for this Province shall and may upon Application, issue Writs of Certiorari for removing Orders of Sessions of the Peace, under such Regulations, Restrictions and Powers, as Writts of Certiorari are issued by His Majesty's Court of King's-Bench in *Great-Britain*, and conformable to the Course and practise of the Common Law, and the several Statutes for that Purpose made and provided.

Supreme Court may on application issue Writs of Certiorari for removing Orders of Sessions of the Peace.

At the GENERAL ASSEMBLY of the Province of *Nova Scotia*, begun and holden at *Halifax*, on the Sixth Day of *June*, Anno Domini 1770, in the Tenth Year of the Reign of Our Sovereign Lord GEORGE the Third, of *Great Britain, France, and Ireland*, KING, Defender of the Faith, &c. and there continued by several Prorogations until the Fifteenth Day of *June*, 1776, in the Sixteenth Year of His said Majesty's Reign, being the Fifth *General Assembly* convened in the said Province.

C A P. I.

An Act for taking, examining, and stating the public Accounts of this Province.

All Accounts of the Receipts of Monies arising from any Duty, &c.

and the Accounts of the issuing of all Money which shall come into the Treasury to be laid before the *General-Assembly* for Examination, &c. and such Approbation & Allowances

to be a Discharge and Bar against any Action.

*** E it Enacted by the Lieutenant-Governor, Council and Assembly, That all Accounts of the Receipt of any Monies arising from any Duty or Taxes granted and raised, and *** that hereafter shall be granted and raised by the *General-Assembly*, for and towards the Support of Government or otherwise, and the Accounts of the issuing and Disposal of all such Monies as have, or shall come into the Treasury by any Ways or Means whatsoever shall be laid before the *General-Assembly* at the several Sessions held from Time to Time, for their Examination, Approbation and Allowance, in such Manner as to the *General-Assembly* shall be judged proper; and all such Approbations and Allowances of the *General-Assembly* heretofore, or that hereafter shall be passed, shall be to the several Collectors or Receivers of the Duties, Treasurers, and other Persons concerned, a full and final Discharge, and be a Bar against any Action, which may be brought for any Sum or Sums of Money against any of the Persons aforesaid.

II. *Provided*, That all Monies arising by the Operations of any Revenue Act or Acts of this Province, shall be accounted for unto his Majesty in the Kingdom of *Great-Britain*, and to the Commissioners of his Majesty's Treasury, or High Treasurer for the Time being, and audited

Proviso.

audited by the Auditor General of his Majesty's Plantations or his Deputy.

III. *And whereas great Inconveniencies have arisen by Persons having Demands or pretend to have demand on this Government, and who do not bring in their Accounts for along Time after the same became due, or was said to become due, and that thro' Length of Time, or the Death or Absence of Persons, the Possibility of detecting Frauds is prevented, by Means of which the Province has been, and may be greatly injured, For Remedy whereof;*

Be it Enacted, That all Persons having Claims or Demands against this Government, either for Work done, Goods supplied, or Services of any Kind, which may have become due, or owing to them before the First Day of June Instant, or who may hereafter have any Demands as aforesaid, shall bring in the same before the next Session of the General-Assembly or within the First Week of the said Session, to be examined and audited by a Committee of Council, and of the House of Assembly, and in like Manner all Accounts of such Demands, shall from Time to Time be brought in either before, or within the first Week of each Session of the General-Assembly thereafter.

IV. *And be it also Enacted, That no such Accounts shall be admitted, or paid by the Treasurer of the Province, where the same shall not have been brought in, within the Times limited by this Act.*

Persons having Demands against Government before 1st June, 1776, or hereafter have any Demands, to bring in the same before the next Session of the General Assembly, or within first Week of said Session to be examined, &c. by a Committee of Council & House of Assembly. and so from Time to Time. No Accounts to be admitted or paid by the Treasurer if not brought in within the Times limited by this Act.

At the GENERAL ASSEMBLY of the Province of *Nova Scotia*, begun and holden at *Halifax*, on the *Sixth Day of June, Anno Domini 1770*, in the Tenth Year of the Reign of Our Sovereign Lord **GEORGE** the Third, of *Great Britain, France and Ireland*, KING, Defender of the Faith, &c. and there continued by several Prorogations until the *Sixth Day of June, 1777*, in the Seventeenth Year of His said Majesty's Reign; being the Fifth *General Assembly* convened in the said Province.

C A P. I.

An Act to avoid the double Payment of Debts.

Preamble.

HEREAS divers Men of Trades and Handicraftsmen keeping Shop Books, do demand Debts of their Customers upon their Shop Books long Time after the same hath been due, and when as they have supposed the Particulars and Certainty of the Wares delivered to be forgotten, then either they themselves or their Servants have inserted into their said Shop Books divers other Wares supposed to be delivered to the same Parties or to their Use, which in Truth never were delivered, and this of Purpose to increase by such undue Means the said Debt. And whereas divers of said Tradesmen and Handicraftsmen having received all the just Debt due upon their said Shop Books, do often times leave the same Books uncrossed, or any way discharged, so as the Debtors, their Executors or Administrators are often by Suit of Law enforced to pay the same Debts again, to the Party, that trusted the said Wares, or to his Executors or Administrators, unless he or they can produce sufficient Proof by Writing or Witnesses, of the said Payment, that may countervail the Credit of the said Shop Books, which few or none can do in any long Time after the said Payment.

No Tradesman &c.
from the 1st January
1772, allowed to

I. Be it therefore Enacted by the Governor, Council and Assembly, That no Tradesman or Handicraftsmen keeping a Shoop Book as is aforesaid, his or their Executors or Administrators shall from the first Day of

of January 1772, be allowed, admitted or received to give his Shop Book in Evidence in any action for any Money due for Wares hereafter to be delivered, or for Work hereafter to be done, above two Years before the same Action brought, except he or they, their Executors or Administrators, shall have obtained or gotten a Bill of Debt or obligation of the Debtor for the said Debt, or shall have brought or pursued against the said Debtor, his Executors or Administrators some Action for the said Debt, Wares or Work done, two Years next after the same Wares delivered, Money due for Wares delivered or Work done.

give his Shop Book in evidence, when Debt above Two Years.

Exception.

II. *Provided always*, that this Act or any Thing therein contained, shall not extend to any Intercourse of Traffic, Merchandizing, Buying, selling, or other trading, or dealing for Wares delivered, or to be delivered, Money due or work done, or to be done, between Merchant and Merchant, Merchant and Tradesman, or between Tradesman and Tradesman, for any Thing directly falling within the Circuit or Compass of their mutual Trades and Merchandize, but that for such Things only, they and every of them shall be in Case, as if this Act had never been made, any Thing herein contained to the contrary thereof notwithstanding.


Not to extend to any Trading or dealing between Merchant and Merchant &c.

At the GENERAL-ASSEMBLY of the Province of *Nova-Scotia*, begun and holden at *Halifax*, on the Sixth Day of *June*, *Anno Domini* 1770, in the Tenth Year of the Reign of our Sovereign Lord GEORGE the Third, of *Great-Britain, France and Ireland*, King, Defender of the Faith, &c. and there continued by several Prorogations until the Sixth Day of *June*, *Anno Domini* 1778, in the Eighteenth Year of his said Majesty's Reign, being the Fifth *General-Assembly* convened in the said Province.

C A P. I.

An Act for the more speedy settling the Value of such Lands, as are, or shall be wanting to erect Fortifications or other military Uses.

Preamble.

 *HEREAS* it may be necessary to erect Fortifications for the Defence of this Province, and it may happen to be in such Places where the Lands are owned and possessed by some of his Majesty's Subjects, either in their own Right, or as Minors or otherwise: In order therefore, that such Persons may have an adequate Satisfaction, and the Lands be properly vested in the Crown;

When Lands are wanted for to Erect Fortifications or other Military Uses. The commanding Officer or proprietor of such Lands to apply to Governors, &c.

Who is authorized to appoint a *Special Court*.

if lands lie at *Halifax* inquiry to be by *Supreme Court* and in any other County by inferior Court.

I. *Be it Enacted, by the Lieutenant Governor, Council and Assembly, That when the Commander in Chief of His Majesty's Troops here, shall judge it necessary that certain Lands should be made Use of to erect Fortifications or other Military Uses, and when the Commander in Chief aforesaid, or in Case of his Neglect the Proprietor of the Lands shall make Application to the Governor, Lieutenant Governor, or Commander in Chief of this Province, for the time being, who is hereby desired and authorized to appoint a Special Court for that Purpose, that is to say, if the Lands lie in the County of Halifax, to be held by the Supreme Court of this Province, and if in any other County by the Inferior Court of Common Pleas for the County where such land shall lie.*

II. *And*

II. *And be it further Enacted,* That such Courts upon due Appointment shall issue out their Precept in the common Form directed to the Sheriff or his Deputy, to summon a Jury of Twenty four good and lawfull Men, Freeholders, from the Town or Precinct nearest to which the Lands shall lie, to meet at such Time and Place as the Judges shall direct by their Precept aforesaid, who shall then and there duely be sworn to estimate and appraise the same.

III. *And be it Enacted,* That the Jury thus sworn, shall view the Premises so demanded, and in their Verdict shall prescribe the Meets and Bounds, as also the Quantity, to whom the lands belong, and what is the real Value thereof, in distinct Parcels, according to the number of Proprietors, and shall return their Verdict in writing under their Hands and Seals to which at least Twelve shall Sign their Names, and such Verdict being entered by Order of the Judges with the Clerk of the Court, thence forward shall become a Record of said Court.

IV. *And be it further Enacted,* That the said Monies so ascertained by the said Verdict being paid to the Proprietors named in said Verdict, respectively or on their refusal to accept the same such Monies shall be lodged in said Court for their Use, or if Minors or others disabled by Law to receive the same, it shall be paid to their Guardians or legal Representatives to be by them disposed of agreeable to the Laws of this Province, and the said Lands shall thereupon be vested in His Majesty, His Heirs and Successors for Ever: and such Record shall be a sufficient Bar in Law against any Action brought by any of the Proprietors of such Lands, their Heirs or Assigns for Trespas or for Recovery of the same.

V. *And be it also further Enacted,* That all Lands heretofore taken upon up for such Use, whose Value has not yet been ascertained may be proceeded on agreeable to this Act.

VI. *And be it Enacted,* That if the Sheriff or his Deputy shall refuse or neglect to summon a Jury as aforesaid, he or they shall forfeit and pay the Sum of Twenty Pounds for every such Neglect, or in Case any of the Jury being duly summonsd shall not attend, or shall refuse to be sworn, he or they shall forfeit and pay the Sum of Five pounds each, for such Neglect or Refusal, and the Judges of the said Courts respectively may Order the same to be levied by Warrant, of Distress and Sale of the Offender's Goods.

Such Court to issue precept for Summoning a jury of 24 freeholders who shall meet at such time and place as the judges shall direct. and be sworn to Estimate & appraise the same.

Jury to view the premises and describe meets and bounds and quantity of lands with the value thereof, Verdict to be return'd under their hands and Seals, and be enter'd with the clerk of court.

on the monies so ascertained by the verdict being paid to proprietor &c. or on refusal to accept the same in Court. said lands to be vested in his Majesty &c.

All lands heretofore taken for such use to be proceeded on agreeable to this Act. If Sheriff or deputy shall refuse to Summon jury to forfeit £20. and if any of the jury Summonsd do not attend &c. to forfeit £5.

C A P. II.

An Act to impower the Governor Lieutenant, Governor or Commander in Chief, to appoint Sheriffs in such Counties where it may be found necessary.

Preamble.

HEREAS at the Time of the Appointment of a Provost Marshall for the Province, no civil Establishment had taken Place, and the Number of Inhabitants were very few and confined within a small Compass, and Whereas since that Period, by the great Increase and Extension of the Inhabitants it was of late Years found expedient to divide the Province into Counties, several of which are remote from the Metropolis, whereby great Inconveniences are daily felt by the want of Sheriffs in each County.

The chief Justice of the Supreme court, or in his absence any other judge of said court, every year to nominate three persons and present list to Governor &c. who is to prick out one to serve the office of Sheriff,

said Sheriff to give security and be invested with

the powers and authority of a high Sheriff and be subject to all such Laws &c. of England & of this Province.

Sheriff to render an account in two Months after the Expiration of their office upon oath of all fines &c.

II. Be it therefore Enacted by the Lieutenant Governor, Council and Assembly, That it shall and may be lawful for the Chief Justice of his Majesty's Supreme Court, or in his Absence for any other Judge of the said Court, once in every Year, that is to say, on the last Day of Michaelmas term annually, to nominate three proper & fit Persons to be made high Sheriffs for each County in the Province, a List of which they are hereby directed to present to the Governor, Lieutenant Governor, or Commander in Chief, for the time being, who is hereby empowered immediately to prick one out of the said Number for each County to serve the Office of High Sheriff for the ensuing year, which Sheriff being resident in his proper County, shall immediately upon his receiving his Patent, & having entered good & sufficient Security for the faithfull Execution of his Office in the Secretary's Office for the Province, be fully invested with all the powers and Authorities of a High Sheriff, and shall be subject to all such Laws, Customs, Ordinances, Regulations, and Directions as the High Sheriff in the several Counties in the Kingdom of England are subject, and shall also be subject to all such Acts of this Province, which in any way or Manner relate to the Execution of the Office of a Provost Marshall, and be intitled to the same Fees as are Established by Law for the Provost Marshall.

III. And be it further Enacted, That the said Sheriffs shall within two Months after the Expiration of their Office being duly Summoned by the Supreme Court render a just and true Account upon Oath to said Court, of all such Fines, Issues and Amerciaments which have been levied and received by them during the Continuance of their said Office under a Penalty of Fifty Pounds for each and every Neglect.

IV. And

IV. *And be it also Enacted,* That when any Person or Persons who shall be so appointed to execute the said Office of High Sheriff, shall refuse to accept the same, the Person or Persons so refusing shall be subject to a Fine of Fifty Pounds for such his Refusal, and upon such Refusal the Governor, Lieutenant Governor or Commander in Chief shall and may prick any other of the Number then remaining upon the List so returned as aforesaid.

Persons appointed Sheriff refusing to accept shall pay a fine of £50.

and Governor, &c. to Prick another.

V. *And be it also further Enacted,* That the Sheriff so appointed shall continue in Office until another shall be sworn in his Stead.

Sheriff to continue in office till another is sworn.

VI. *And be it Enacted,* That the several Fines and Forfeitures imposed by his Act shall be recovered by Bill plaint or Information before the Supreme Court, and when recovered the same shall be paid to the Treasurer of the Province for the Use and Service thereof.

Fines, &c. to be recovered before the Superior Court and paid to the Treasurer of the Province.

VII. *Provided,* That nothing in this Act contained, shall be of any Effect until his Majesty's Pleasure therein shall be known.

This Act not to have Effect till his Majesty's pleasure is known.

C A P. III.

An Act for the more speedy Recovery of His Majesty's Debts within this Province.

***** *HEREAS* the Manner of recovering His Majesty's Debts hitherto used and practised, has been attended with great Inconvenience, and oftentimes with the total Loss of such Debts, thro' the Length of the Process and otherwise.

Preamble.

I. *Be it Enacted,* by the Lieutenant Governor, Council and Assembly, That from and after the Publication of this Act, the Collectors of the public Money, in any Case where they are obliged to give Credit, according to the Laws of the Province, shall take such Recognizances in the Name of our Sovereign Lord the King, to be paid to our said Sovereign Lord the King, his Heirs, and Successors, and to his and their Use only: and the said Obligors shall at the same Time give a full and sufficient Power of Attorney, either indorsed on the said Recognizance or annexed thereto; empowering some one of the Attornies of the Court to confess, that such Debt mentioned in the Condition of the Recognizance is justly due, and if the Obligor or Obligors shall pay and discharge the Money due at, or before the Time specified in the said Recognizance. That then it shall be lawful, and such Collector is hereby required to discharge such Recognizance, and the same shall become void.

In cases where Collectors give credit for payment of Duties they shall take such Recognizances in the name of the King, and the obligors to execute a Warrant of Attorney, for confessing such debt to be due, and if the obligor pay the money due at or before time specified, the Collector to discharge the Recognizance.

II. *And*

On no payment thereof. The Collector shall transmit the same to the Treasurer of the Province.

II. *And be it further Enacted,* That if such Recognizances shall not be paid and satisfied at the time specified and mentioned therein, that then the Collectors or others who are impowered to take such Recognizances shall forthwith transmit them to the Treasurer of the Province by the first safe Conveyance.

The treasurer upon receipt thereof shall prosecute the same in the Supreme Court. no imparlance to be granted. but judgment made up and Ex: issue action to be entered during the term. if in Vacation before the chief Justice or in his absence before one other of the judges who shall order judgment to be made up as of last term and Ex. to issue. Sheriff or Deputy upon receiving writ of Ex. shall levy the same within 60 days.

III. *And be it also further Enacted,* That the Treasurer upon Receipt thereof shall cause the same to be Prosecuted in his Majesty's *Supreme Court* at *Halifax*, and the Recognizance being duly filed, and the confession of the Debt being acknowledged, no Imparlance shall be granted, but Judgment shall be made up thereupon, and Execution shall issue to levy the Debt upon the Goods, Chattels and Estate of the Debtor; and for the more speedy recovering the same, the said Action may be entered at any Time during the Term in which such Court is held, or in any Time during the Vacancy of said Terms, before the Chief Justice or in his absence before either of the other Judges of the said Court, who shall thereupon order Judgment to be made up as of the last Term and Execution to issue thereon.

IV. *And be it further Enacted,* In order to prevent any delay of Justice, That the Sheriff, or his Deputy, upon his Receiving the Writ of Execution shall within Sixty Days from the Date thereof, cause the same to be duly levied, or otherwise shall make a legal Return thereof into Court, with his Doings thereon, upon Pain of answering for any Failure or Neglect agreeable to the Laws in such Cases made and provided.

C A P. IV.

An Act to amend, render more Effectual, and reduce into one Act the several Acts made by the *General Assembly* of this Province concerning *Bail*.

In all causes where demand shall exceed £3 -- attachment may be made on goods &c. or the Debtor arrested imprisonment'd or held to, Bail. upon the plaintiff or his attorney making affidavit before a judge or in

***** *Be it Enacted, by the Lieutenant Governor, Council and Assembly,* That in all Causes where the Sum in demand shall exceed three Pounds, the Sheriff or Sheriff or his Deputy may arrest, Imprison or hold to Bail any Debtor or Debtors, or attach the Goods, Chattels or Estate of such Debtor or Debtors, upon the Plaintiff in such Actions his Attorney or Agent, making and Subscribing an Affidavit in Writing before a Judge of the Court from whence such Writ shall issue, or in the absence of such Judges, before any one of His Majesty's Justices of the Peace, that the Defendant is justly indebted to the Plaintiff in any Sum

Sum exceeding three Pounds, which Affidavit shall be filled in the Office of the Clerk of the Court, from whence the writ shall issue, and the Sum Specified in such Affidavit shall be Indorsed on the Back of the said Writ in the Form following, by Oath for (in Words at length) for which Sum so indorsed, the Provost Marshall, Sheriff, Coroner or their Deputies, shall take Bail or make Attachment as aforesaid, and for no more; any Law, Usage or Custom to the contrary notwithstanding.

absence of Judges before a Jus. peace. affidavit to be filed with the Clerk of the court. sum sworn to indorsed on the writ.

II. *And be it further Enacted*, That if such Action shall be brought by any Agent, Factor or Attorney, in the Name of his Principal, if absent, upon producing an Affidavit of the Debt of his Principal duly authenticated, according to the Laws of England or the Usage and Practice of the Plantations in such Cases, and upon the said Affidavits being respectively filed, as aforesaid, then the said Judge, shall indorse the Sum so sworn to, and Bail shall be required or an Attachment be made accordingly.

If plaintiff be absent, his attorney may file his affidavit. on which the like proceedings shall be had.

III. *And be it also further Enacted*, That when any Person or Persons shall be arrested by Virtue of any Writ or Original Process, the Provost Marshall, Sheriff, or his Deputy shall be obliged and are hereby respectively required, upon sufficient Bail being offered, to let such Defendant or Defendants go at large, upon his or their first executing a Bond with two sufficient Sureties to the said Provost Marshall or Sheriff, with a Condition thereunder written for the personal Appearance only of the Defendant, on the first Day of the Court to which such Writ is returnable, and if such Defendant shall not appear accordingly, or give in sufficient Bail to abide the final Event of the Suit, Judgment shall be entered against the Defendant by Default, and the Provost Marshall or Sheriff, shall then and there in Court, upon the Request of the Plaintiff or his Attorney, assign the Bail Bond by indorsing his Name thereon for the Benefit of the Plaintiff, to be in Suit or otherwise recover the Penalty thereof, which Assignment shall not Debar the Plaintiff from proceeding to final Judgment and Execution in the same Court, against the Defendant or Defendants in the said Action, as in Cases wherein Default is made; but whenever it shall happen that the Defendant or Defendants in the said Action shall appear according to the Tenor of the Condition of the Bond, and there abide by the Order of the Court, or give Bail to the Satisfaction of the Plaintiff, and Approbation of the Court, to abide by the final Issue and Determination of the Suit, or if the Defendant from some Impediment shall not appear, but nevertheless two sufficient Persons to be approved of by the Plaintiff and Court, shall offer to become and give Bail in manner aforesaid, in such Case the Bail

upon Bail given, the officer to let defendant go at large.

if defendant do not appear to give Bail to abide the final event of the suit judgment to be entered against him by Default.

and Bail Bond assigned.

upon Defendant's appearance or giving special Bail, the Bail bond to be discharged.

or Appearance only, shall be discharged, and such Defendant or Defendants shall be intitled to all the Privileges of Law, and in no other Case whatsoever, unless consented to and agreed upon in open Court between the Plaintiff and Defendant or their Attornies in their Behalf.

At the GENERAL ASSEMBLY of the Province of *Nova Scotia*, begun and holden at *Halifax*, on the Sixth Day of *June*, Anno Domini 1770, in the Tenth Year of the Reign of Our Sovereign Lord GEORGE the Third, of *Great Britain, France, and Ireland*, KING, Defender of the Faith, &c. and there continued by several Prorogations until the Seventh Day of *June*, 1779, in the Nineteenth Year of His said Majesty's Reign, being the Sixth General Assembly convened in the said Province.

C A P. I.

An ACT to prevent the spreading of Distempers among Horses and Cattle in this Province.

Preamble.

HEREAS great Damage & Inconvenience may arise by the going at large of Horses, Mares, or Geldings and Cattle, which are infected with Diseases liable to be communicated to other Horsekind or Cattle;

Justices in Sessions shall make regulations for the preventing the going at large of infected Horses and Cattle.

any Person transgressing such Regulations to forfeit £10.

I. Be it Enacted, by the Lieutenant-Governor, Council and Assembly, That the Justices of the Peace in each County or Township, impowered to hold Sessions of the Peace, shall have Power, and they are hereby directed to make Regulations for the preventing the going at large of infected Horses, Mares, Geldings and Cattle, and the spreading of Distempers among them, in Manner as shall be most agreeable to the Circumstances of such County or the Townships therein, and any Person who shall transgress such Regulations so made, shall be subject to a Fine not Exceeding Ten Pounds, to be recovered on Complaint or Information before any two of his Majesty's Justices of the Peace for the County, wherein the Offence shall be committed,

or

or before the Justices in the Sessions held for such County or Township, and be levied on non-payment thereof, by Warrant of Distress and Sale of the Offender's Goods and Chattels, and applied for the Use of the Poor of the Township where the Offence shall be committed.

C A P. II.

An ACT, to Regulate Abuses in the Sale of Hides and Skins.

HEREAS notwithstanding the Penalties to be inflicted by the Laws of this Province on Butchers or other Persons, who shall gash, cut, split or flaw the Hides of Cattle, Calf or Sheep in slaing thereof, or otherwise, great Abuses are daily committed to the great Injury of the Public;

Preamble.

I. *Be it Enacted by the Lieutenant Governor, Council and Assembly,* That the Persons appointed Searchers and Sealers of Leather, shall view every Hide or Skin of any Cattle, Calves or Sheep either in the Slaughter House or at the Tanners, before the same shall be delivered on Sale, and if he shall find the same to be gashed, cut, split or Flawed, there shall be an Allowance made in the Price thereof to the Buyer, as shall appear to the said Searchers and Sealers of Leather, to be just and equitable, and any Butcher or other Person, who shall not call on the said Searchers and Sealers of Leather to view such Hides or Skins before such Sale, shall forfeit and pay a Fine of Twenty Shillings, for every such Hide or Skin not exposed to view as aforesaid, to be recovered before any one of His Majesty's Justices of the peace, and be levied by Warrant of Distress and Sale of the Offender's Goods and Chattels, one half thereof to be paid to the Informer or Person suing for the same, and the other Half to the Poor of the Place where the Offence shall be committed.

The Searchers and Sealers of Leather to view every hide or skin of cattle, Calves or sheep before delivered on sale, and if gash'd &c. an allowance to be made in the price. Any butcher or others who shall not call on searchers of leather to view the same before the sale, shall pay a fine of 20s. for every hide &c. to be recovered before one Justice, one half to informer or Person suing, and one half to the poor.

II. *And be it also Enacted,* That the said Searchers and Sealers of Leather shall be paid for their trouble in viewing the said Hides and Skins, *that is to say,* for every Ox, Bull, Steer or Cow Hide, three Pence, and for every Calf or Sheep Skin one penny, and Three Pence per Mile Travel, to be paid by the Seller.

Searchers & sealers of Leather to be paid for their trouble.

C A P. III.

An ACT for providing Pounds in the several Townships in this Province.

Preamble.

HEREAS the Manner of raising Money for the erecting Pounds in the several Townships in this Province, by the Act made in the Fifth Year of his present Majesty's Reign, intituled, an Act for the raising Money by Presentment on the several Counties in this Province, for the defraying certain County Charges therein mentioned, is found inconvenient;

The Account of Expenses for erecting Pounds shall before payment be approved by two Justices of the Peace, and the cost thereof levied by Assessment.

I. Be it Enacted, by the Lieutenant Governor, Council and Assembly, That the Account of Expenses for erecting a Pound or Pounds in any Township, shall before Payment be approved by two Justices of the Peace, residing in the Township where such Pound or Pounds shall be erected, or by two Justices of the Peace in the County wherein such Township shall lie, and the Cost thereof shall be levied on the Inhabitants of such Township by Assessment in Manner as is provided for levying the Monies voted for support of the Poor and recovered accordingly.

C A P. IV.

An ACT for the establishing a public Market for the Sale of live Stock within the Town of Halifax.

Preamble.

HEREAS for want of an established Market for the Sale of live Stock within the Town of Halifax, many evil minded Persons, do forestall and engross the live Stock drove to the Town of Halifax, and have hereby greatly enhanced the Price of all Kinds of Butcher's Meat, to the great Distress of the Poor and other Inhabitants of the said Town, as also for the Want of some Public Place of Sale, the Farmers and Drovers are greatly imposed upon; in order therefore to remedy so great a Mischief and Inconvenience.

A Public Market to be Establish'd in Halifax for the sale of live neat cattle &c.

I. Be it Enacted by the Lieutenant Governor, Council and Assembly, That there shall be a public Market established within the Town of Halifax, for the Sale of Live neat Cattle, Sheep, Lambs, Calves and Swine, in such Place as the Governor, Lieutenant Governor or Commander in Chief of this Province for the Time being, shall appoint, or set a part for that Purpose, and all such live Stock as aforesaid, shall be there sold, and in no other Place within the Distance of Ten Miles from Halifax.

II. And

II. *And be it also Enacted*, That the Market aforesaid, shall be held every Day in the Week (Sunday's excepted) and if any Butcher or other Person whatsoever, at any other Place in *Halifax*, than the Market Place so set a part, or within Ten Miles thereof, shall purchase any Live Stock, he or they shall be deemed Foretallers and Regrators.

Said market to be held every day (Sundays excepted) and if any person shall purchase any live stock at any other place within ten Miles of Halifax, he shall be deemed a foretaller and regrator.

And in order the better to Rule, order and regulate the said Market.

III. *Be it Enacted*, That the Justices of the Peace in the County of *Halifax*, are hereby impowered in their *General Sessions of the Peace* or at *A Special Sessions* called for that purpose, to nominate and appoint a Clerk for attending at, and overseeing the said Market, and they shall have Power and Authority at their said Sessions to make such bye Laws for the better governing, ruling and ordering the said Market, not being repugnant to the Laws of *Great Britain*, or of this Province, and to set and impose a Fine not exceeding the Sum of Forty Shillings, for each and every offence, and upon due Conviction of any Offender against them, to levy the Fine by Warrant of Distress and Sale of the Offender's Goods.

Justices in Sessions to nominate & appoint a Clerk for said Market and make Regulations and bye Laws for better Governing & ordering the same.

IV. *And be it also Enacted*, That the Justices of the Peace in their Sessions aforesaid, shall also have full Power and Authority, to make such bye Laws as may be necessary for the better governing, ruling and ordering the Market already establish'd, for the Sale of Dead Provisions (not being repugnant to the Laws aforesaid) and by setting a Fine not exceeding Forty Shillings in Manner aforesaid, for the Enforcement of said Rules and Orders, and to be recovered as aforesaid.

Justices in sessions to make bye Laws for the better Governing &c. the market at present established,

V. *Provided always*, That nothing in this Act contained, shall debar the Agents or Contractors for victualling his Majesty's Ships and Army, from purchasing in the Manner heretofore practised.

This Act not to extend to contractors &c. for the Navy and Army.

VI. *And it also further Enacted*, That all the Fines and Forfeitures arising in Pursuance of this Act, shall be applied to keeping said Market Places in repair, and if there shall be an Overplus, the same shall be applied for the Use of the Poor of the Town of *Halifax*.

Application of the fines & forfeitures.

VII. *Provided*, That nothing in this Act contained, shall take effect till a public Slaughter House is erected.

Nothing in this Act to take effect till public Slaughter house is built.

C A P. V.

An ACT to empower the Justices of the Peace in their Sessions to make Regulations for preventing the Clandestine conveying away Sheep and Lambs from the Townships in this Province.

Preamble.

HEREAS Butchers, Drovers and others, who buy Sheep and Lambs in the Country do frequently in a clandestine Manner drive away other Sheep and Lambs, the Property of the Inhabitants, from the Commons and Places where they run at Large, by which Means it is not in the Power of the Owners to detect them, for Remedy whereof ;

The Justices in Sessions to make regulations for the preventing the clandestine driving away sheep and lambs from the several townships. Persons who transgress such Regulations to forfeit £5. for the use of the Poor.

I. *Be it Enacted by the Lieutenant Governor, Council and Assembly,* That the Justices of the Peace in each County or Township empowered to hold Sessions of the Peace, shall be empowered in their Sessions as aforesaid, and they are hereby directed, to make Regulations for the preventing the clandestine driving or carrying away Sheep and Lambs from the several Townships in such Counties, in Manner as shall be most agreeable to the Circumstances of such County or Townships therein, and any Person who shall transgress such Regulations so made by the Justices, shall forfeit and pay a Fine not Exceeding Five Pound to be recovered on Complaint or Information before any Two of his Majesty's Justices of the Peace for the County wherein the Offence shall be committed, or before the Sessions in such County or Township, and be levied by Warrant of Distress on the Offender's Goods and Chattels, and applied to the Use of the Poor of the Township where the Offence shall be committed.

At the GENERAL ASSEMBLY of the Province of *Nova Scotia*, begun and holden at *Halifax*, on the *Sixth Day of June*, Anno Domini 1770, in the Tenth Year of the Reign of Our Sovereign Lord GEORGE the Third, of *Great Britain, France and Ireland*, KING, Defender of the Faith, &c. and there continued by ſeveral Prorogations until the Ninth Day of *October*, 1780, in the Twentieth Year of His ſaid Majesty's Reign; being the *Seventh General Aſſembly* convened in the ſaid Province.

C A P. I.

An ACT for the more ſpeedy and effectual collecting ſuch Town Rates and Taxes as may be aſſeſſed on the Inhabitants of the Township of *Halifax*.

HEREAS the Method hitherto praſtiſed in Collecting Taxes and Rates for the Support of the Poor, and other Town Rates and Taxes at *Halifax*, has been found inſufficient for that Purpose.

Preamble.

I. Be it Enacted, by the Lieutenant Governor, Council and Aſſembly, That from and after the Publication of this Act, it ſhall and may be lawfull for the Juſtices in their *General or Special Sessions* of the Peace, annually, to appoint a fit Perſon to collect all Town Taxes or Rates, which ſhall be aſſeſſed on the Inhabitants of the Township of *Halifax*, which Perſon ſhall give ſufficient Security from the faithfull Diſcharge of his Office.

Juſtices in *General or Special Sessions* to appoint annually a Collector of Rates & Taxes for the Township of *Halifax*.

II. And be it alſo Enacted, That the Collector appointed as aforeſaid, ſhall once in every Month account with and pay into the Hands of ſuch Perſon or Perſons appointed to receive the ſame, for the Time being, all ſuch Sums of Money as he may have received, and in Caſe of his Neglect, or reſuſal to Account and pay the ſame as aforeſaid, ſuch Collector

Said Collector to account every Month and pay Money received by him.

Collector shall and may be prosecuted by Bill, Plaint or Information in any of His Majesty's Courts of Record.

To be allowed £10 per Cent. for collecting.

III. *And be it Enacted*, That the Collector appointed as aforesaid shall be allowed *Ten Pounds per Cent*, for collecting and paying in the Rates and Taxes as aforesaid.

C A P. II.

An ACT for Establishing a publick School in the Town of *Halifax*.

Preamble.

HEREAS every publick Attention to the Education of Youth is of the utmost Importance in Society, and whereas it is impracticable to procure a person sufficiently qualified for that Purpose, without making a handsome and liberal Provision for his easy Support and Maintenance.

A Sum not exceeding £1500. to be granted for erecting a Building in *Halifax* for a School.

I. *Be it Enacted by the Lieutenant Governor, Council and Assembly*, That a Sum not exceeding Fifteen Hundred Pounds, be Granted for the Purpose of erecting a proper and convenient Building in the Town of *Halifax*, for keeping a Publick School, which Sum shall be raised in Manner hereafter to be directed by the *General Assembly*.

Allowance to the Master and for Assistance.

II. *And be it also Enacted*, That a Sum not exceeding One Hundred Pounds be annually granted in the Estimate for the Expences of Government for the Support of a School-master, and when the Number of Scholars shall exceed Forty, that a further Allowance of Fifty Pounds Yearly be included in the said Estimate for the Assistance of the said Master in the Support of an Usher, which the said Master shall in that Case provide.

Five Persons to be Annually appointed as Trustees and Directors by the Governor &c.

III. *And be it further Enacted*, That there shall be annually appointed by the Governor, Lieutenant Governor, or Commander in Chief of the Province, five reputable Persons as Trustees and Directors of the said School, one of which to be President, who are hereby empowered to make Bye-Laws and Regulations for the said School, and who shall be incorporated for that Purpose, to be enabled to sue and be sued, to hold Grants of Lands, and to receive Donations for the Endowment thereof.

Said Trustees to be accountable to the Legislature.

IV. *And be it also further Enacted*, That the said Trustees and Directors shall be from Time to Time accountable to the Legislature of the Province for their Conduct and Management of the Property to be Vested in them.

V. *And*

V. *And be it Enacted*, That the faid President and Directors fhall hold a public Vifitation and Examination at faid School twice every Year. to wit, on the Firft Monday of *May*, and the Firft Monday of *October* annually.

The President, and Directors to hold a public Vifitation twice a Year.

At the GENERAL-ASSEMBLY of the Province of *Nova-Scotia*, begun and holden at *Halifax*, on the Sixth Day of *June*, *Anno Domini* 1770, in the Tenth Year of the Reign of our Sovereign Lord GEORGE the Third, of *Great-Britain, France and Ireland*, King, Defender of the Faith, &c. and there continued by feveral Prorogations until the Eleventh Day of *June*, *Anno Domini* 1781, in the Twenty-First Year of his faid Majesty's Reign, being the Seventh *General-Assembly* convened in the faid Province.

C A P. I.

An ACT to eftablifh authenticated Copies of the Records of Council as legal Evidence.

W *HEREAS* many Titles to Land depend on Votes of his Majesty's Council, and many other proceedings in Council, become oftentimes neceffary Evidence in Suits at Law; and whereas doubts may arife relative to the Admittability of fuch Evidence, and the producing the original Records in Court is attended with great Inconvenience; in order therefore to remedy the fame.

Preamble.

BE it Enacted, by the Lieutenant-Governor, Council and Assembly, That hereafter the Transcript or Copy of any Vote or Proceedings of his Majesty's Council, relating to Titles of Lands, attested as a true Copy, and figned by the Clerk of the Council, fhall be admitted and received as legal Evidence in any Cafe depending in any of his Majesty's Courts, within this Province. And the Clerk of the Council is hereby required and directed, upon the Application of any of the

The Transcript or Copy of any Vote or proceedings of his Majesty's Council, relating to titles to Lands, to be admitted as Evidence.

The Clerk of the Council to give Copies of such proceedings.

Fee for the same.

Parties at Variance, or their Attorney, to give an exact Copy of all such Proceedings; attested and signed by him; and that there shall be paid for the same, for every Search one Shilling, for every authentic Copy, signed by him, six Shillings and Eight pence, if under one Hundred Words, and for every Hundred Words more, at the rate of one Shilling for every one Hundred Words.

At the GENERAL ASSEMBLY of the Province of *Nova Scotia*, begun and holden at *Halifax*, on the Sixth Day of *June*, Anno Domini 1770, in the Tenth Year of the Reign of our Sovereign Lord GEORGE the Third, of *Great Britain, France, and Ireland*, KING, Defender of the Faith, &c. and there continued by several Prorogations until the eleventh Day of *June*, 1782, in the Twenty Second Year of His said Majesty's Reign; being the Eight *General Assembly* convened in the said Province.

C A P. I.

An ACT to restrain Hawkers, Pedlars, and petty Chapmen, not duly licensed to Trade, travelling to and fro' through the Country.

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 HEREAS many Inconveniencies arise by Hawkers, Pedlars, and Petty Chapmen, passing to and fro' thro' the Country to vend Goods and Merchandize, that it is a Detriment to Trade, and an Encouragement to many idle Persons, to avoid being employed in usefull Trades or Husbandry; for Remedy whereof.

Preamble.

I. Be it Enacted, by the Lieutenant Governor, Council and Assembly, That from and after the Publication of this Act, no Hawker, Pedlar, or Petty Chapman, or other trading Person or Persons, going from Town to Town or other Men's Houses, and travelling either on Foot, or with Horse, Horses or otherwise, carrying to sell or exposing to Sale

Sale in any House, or in any Town or Village, whereof such Person or Persons is not an Inhabitant, except in any public Fair or Market, any Wares, Goods or Merchandize, without previously giving Bond, and taking out a License, if at *Halifax* from the Clerk of the Licenses, and if in any other County or District in the Province, from the Clerk of the Peace, by Consent of at least three Justices of the Peace for such County or District, in the same Manner as Bonds are taken and Licenses for Retailing Liquors are granted, for which License there shall be paid half yearly as follows, for every License to a Hawker, Pedlar, or Petty Chapman, travelling on Foot without Horse or other Beast of Burthen, Three Pounds, for every License to such Hawker, Pedlar or Petty Chapman, travelling with one Horse, or other Beast of Burthen Six Pounds, and for Every Horse, or other Beast of burthen, exceeding one, Two Pounds, and the Number of Horses or other Beasts of burthen, when any to be expressly specified in the License.

Hawkers and Pedlars to be licensed and pay a Duty.

II. *And be it also Enacted*, That no Person or Persons shall expose to Sale in any House, or in any Town or Village, whereof such Person or Persons is not an Inhabitant except in any public Fair or Market, any Wares, Goods or Merchandize, without having obtained a License as aforesaid, on Pain of forfeiting all such Goods, Wares or Merchandize, by him or them exposed to Sale.

Penalty for selling without License.

Fair and Markets excepted.

III. *And be it Enacted*, That the whole of the Monies arising from the Duty or Rate to be paid by every Hawker, Pedlar and Petty Chapman as aforesaid, together with two Thirds of the Fines and Forfeitures incurred by Offenders against this Act, shall be appropriated for the making, opening and repairing the public Road, and Bridges, thro' the Province, under the Direction of the Governor, Lieutenant Governor, or Commander in Chief of the Province, and the other Third of the Fines and Forfeitures aforesaid, to him or them who shall inform against, and prosecute such Offender or Offenders for the same, and be recovered by Bill, Complaint or Information in any of his Majesty's Courts of Record in the Province.

Appropriation of the Money arising from the Duty and Penalties.

IV. And all his Majesty's Justices, Sheriffs, Under Sheriffs and Constables are hereby strictly enjoined and required, to exert their utmost Power to see, that this Law be duly put in Execution.

Justices, Sheriffs, and Constables to be aiding and assisting in putting the Act in execution.

V. *Provided always*, That nothing in this act shall extend, or be construed to extend to prohibit any Person selling Fish, Fruits or Victuals, nor to hinder any Makers of Goods or their Children, Apprentices or Servants, from carrying or selling the Goods of their own making; nor any Tinkers, Coopers, Glaziers, Plumbers, Harness Menders, or other Persons, usually trading in mending Kettles, Tubs, Household Goods, or Harness, from going about and carrying Materials for Mending the same.

Exceptions.

C A P. V.

An Act to prevent the Forestalling Regrating and Monopolizing of Cord Wood in the Town of *Halifax*.

Be it Enacted, by the Lieutenant Governor, Council and Assen-
bly, That from and after the Publication of this Act, what-
 soever Person or Persons shall buy, or Cause to be bought,
 any Cord Wood coming by Land or Water to the Town
 of *Halifax* to be sold again, except at the Distance of Ten Miles from
Halifax, or shall make any Bargain, Contract, or Promise, or shall
 make any offer in any Way or Manner whatsoever, to any Person or
 Persons for the having or buying the same, or any Part thereof, for
 the enhancing the Price, or dearer selling any Kind of Cord Wood
 coming by Land or Water, to *Halifax*, aforesaid, shall forfeit and pay
 for every Cord of Wood so bought or received Ten Shillings per
 Cord, over and above the Price so given or paid, upon Conviction
 before Two of his Majesty's Justices of the Peace, and be levied (in
 Case of Refusal of Payment) by Warrant of Distress and Sale of the
 Offender's Goods and Chattles, and be applied towards the support
 of the Poor of the said Township.

II. *Provided nevertheless,* That when the Price of Cord Wood shall
 be at the Rate of Fifteen Shillings per Cord, or under, any Person or
 Persons shall, and may be at Liberty to purchase Cord Wood to sell
 again, without incurring the Penalties of this Act.

III. And *Provided* also, That nothing in this Act contained shall
 extend to prevent the Barrack Master, or Persons employed by him,
 from purchasing Cord Wood for the Use of His Majesty's Troops.

Any Person buying
 Cord Wood to sell
 again (except at the
 distance of ten miles
 from *Halifax*) or
 shall make any bar-
 gain &c. for en-
 hancing the price
 to forfeit 10s. per
 Cord.

Unless when the
 price of Cord
 wood shall be at
 15s. or under,

And not to prevent
 Barrackmaster from
 purchasing wood
 for the Troops.

