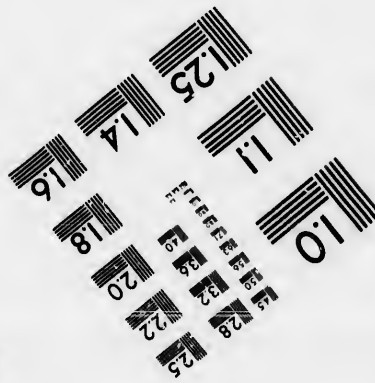
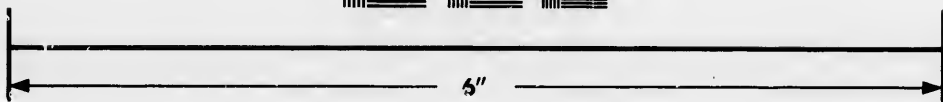
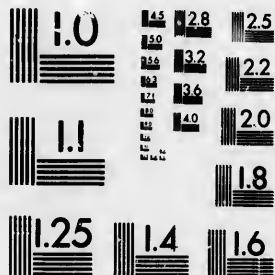


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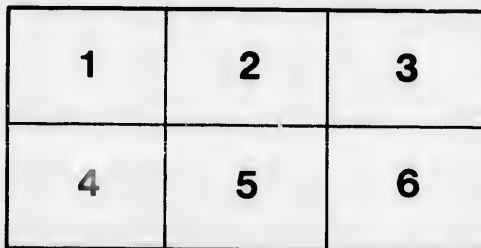
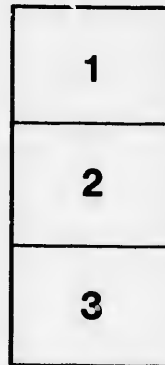
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LAW MANUAL,

CONTAINING A NUMBER OF VERY IMPORTANT ACTS OF OUR  
PROVINCIAL PARLIAMENT, UP TO THE CLOSE OF THE  
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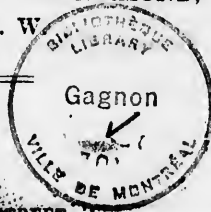
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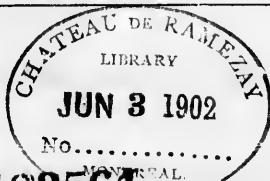
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#### STANDARD MEASURE OF THE PROVINCE OF CANADA.

By 16th Vict., cap. 193, it is enacted, that after the passing of this Act the following rates shall be the standard weight, which in all cases shall be allowed to be equal to the Winchester bushel, viz:—

Wheat,.....	Sixty pounds.
Indian Corn,.....	Fifty-six pounds.
Rye,.....	Do. Do.
Peas,.....	Sixty Do.
Barley,.....	Forty-eight Do.
Oats,.....	Thirty-four Do.
Beans,.....	Sixty Do.
Olover Seed,.....	Sixty Do.
Buckwheat,.....	Forty-eight Do.
Timothy Seed,.....	Do. Do.

N.B.—By the 4 Geo. iv., cap. 16, the Secretary shall furnish each district with a true standard. And all persons trading having Weights or Measures which they buy and sell by, unless stamped, may be convicted before any one Justice, on oath of one witness, forfeit £2 for every offence, to be levied with reasonable costs, by distress and sale, and in default the offender may be committed to gaol for any space of time not to exceed one month.

Amended by 22 Vict., 1859, see pages 662 to 664 in Richmond's Legal Forms and Law Manual Supplement, published in 1860.

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The Act for the Disposal of Road Allowances in C. W. Also the Act for Houses of Public Entertainment is Repealed.—See pages 629 to 632 in the Supplement.

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# LIBRARY ASSOCIATIONS,—AMENDMENT.

## CAP. LI.

AN ACT TO AMEND THE ACT FOR INCORPORATING LIBRARY ASSOCIATIONS AND MECHANICS' INSTITUTES.

[Assented to 19th June, 1856.]

**W**HEREAS it is expedient to amend the second section of the Act passed in the session held in the fourteenth and fifteenth years of Her Majesty's Reign, and intituled, *An Act for the incorporation and better management of Library Associations and Mechanics' Institutes*, so as to enable such institutions in certain towns and villages to hold property to a larger amount than the sum therein limited: Therefore Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Preamble.  
14 & 15 V. c. 68.

I. From and after the passing of this Act, it shall be lawful for any Library Association or Mechanics' Institute incorporated under the said Act, and situate in any village or town having three thousand inhabitants or more, to hold real property not exceeding in annual value the sum of five hundred pounds; and for any Library Association or Mechanics' Institute incorporated under the said Act, and situate in any town or city not having more than three thousand inhabitants, to hold real property not exceeding in annual value the sum of two hundred and fifty pounds; any thing in the said section to the contrary notwithstanding.

Amount of real property in towns &c., of more than 3,000 inhabitants.

And in those having a smaller population.

# UNINCORPORATED COMPANIES, C. E.

## CAP. LII.

AN ACT TO EXTEND THE PROVISIONS OF THE ACT TO FACILITATE ACTIONS AGAINST PERSONS ASSOCIATED FOR COMMERCIAL PURPOSES, AND AGAINST UNINCORPORATED COMPANIES.

[Assented to 19th June, 1856.]

**W**HEREAS it is expedient to extend to certain Associations and Companies hereinafter described the provisions of the Act of the Parliament of this Province, passed in the twelfth year of

Preamble.

12 V. c. 45.

Her

Her Majesty's Reign, intituled, *An Act to facilitate actions against persons associated for commercial purposes, and against unincorporated Companies*: Therefore Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Partnerships for certain purposes.

I. All and every the provisions of the Act referred to in the preamble of this Act, shall extend and be held and construed to extend to all persons, associated in partnership for manufacturing purposes, or for mechanical purposes, or for purposes of construction of roads dams, bridges or other buildings, or for purposes of colonization, or settlement or of land traffic.

Interpretation clause.

II. The word "Partnership" in the said Act, and in this Act, shall include any unincorporated Society, Company or Association for any one or more of the above purposes; and the word "action" in the said Act, shall include any proceeding at law to which any such Partnership shall be a party.

To apply only to L. C.

III. This Act shall apply to Lower Canada only. (See pp. 594 to 597 in this work.)

## FREEDOM OF BANKING.

### CAP. III.

AN ACT TO AMEND THE ACT FOR ESTABLISHING FREEDOM OF BANKING.

[Assented to 21st April, 1856.]

Preamble.

WHEREAS it is expedient to amend the Act for establishing Freedom of Banking, in the manner hereinafter mentioned: Therefore Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Section 13 of 13 & 14 V. c. 21, repealed and a new sec. substituted.

I. The thirteenth Section of the Act passed in the Session held in the thirteenth and fourteenth years of Her Majesty's Reign, and chaptered twenty-one, is hereby repealed, and the following section shall be substituted in lieu thereof:

Provincial securities to be deposited and before commencing business, and to what amounts.

"No individual Banker shall make or issue Bank Notes, and no Joint Stock Association shall commence the business of Banking, until they have respectively deposited in the hands of the Receiver General, for the purposes of this Act, Debentures or other

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other securities issued by, or the payment of the principal and interest whereof is guaranteed by the Government of this Province, under the authority of the Legislature thereof, or secured upon the Upper Canada or the Lower Canada Municipal Loan Fund, and bearing interest at the rate of six per centum per annum, (or if bearing a less rate of interest, then to proportionally greater amounts) to amounts not less than those hereinafter mentioned, that is to say :

Any Joint Stock Association, to the amount of not less than Twenty-five Thousand Pounds ;

Any individual Banker, to the amount of not less than Twenty-Five Thousand Pounds ;

The value of the said Debentures or securities being reckoned at *par*, and the same being held by the Receiver General in pledge for the due redemption of the Bank Notes of the Bank by which they are deposited, and the interest thereon being paid over to such Bank, as the same shall accrue, except as hereinafter provided.”

Value to be reckoned at *par*.

Which said Section shall be construed as the thirteenth Section of the said Act.

II. The Proviso to the fourteenth Section of the said Act shall be and the same is hereby repealed, and the following Proviso shall be and is hereby substituted therefor, and shall be, and shall be deemed and taken to have been, the Proviso to the said fourteenth Section :

Proviso to section 14 repealed.

“Provided always, that all such Bank Notes wherein such Bank is situate,—that they shall be made payable to bearer on demand,—that they shall be marked on the face thereof as being secured by deposit of Provincial securities,—and that they shall be held to be payable at the Office of the Bank, and not elsewhere.” (See General Banking Laws on pp. 257 to 274 in this work.)

New Proviso substituted.

## ACCOUNTS IN DOLLARS AND CENTS.

### CAP. XVIII.

AN ACT TO REQUIRE ACCOUNTS RENDERED TO THE PROVINCIAL GOVERNMENT TO BE SO RENDERED IN DOLLARS AND CENTS.

[Assented to 10th June, 1857.]

**W**HEREAS it will greatly facilitate the keeping and audit of the public accounts of the Province, that the same be kept in dollars and cents :

Preamble.

cents: Therefore Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

Accounts to the Government to be rendered in dollars and cents. I. All accounts to be rendered to the Provincial Government or to any Public Officer or Department in this Province, by any Officer or Functionary, or by any party receiving aid from the Province, or otherwise accountable to the Government or Legislature thereof, shall be so rendered in dollars and cents; but any

Column for £. s. d. may be added. such accounts may have a second column containing sums in pounds, shillings and pence, equivalent to the sums so stated in dollars and cents, if the accountant shall prefer to render his account in that form.

Commencement of Act. II. The preceding enactment shall take effect upon, from and after the Thirty-first day of December, one thousand eight hundred and fifty-seven, and not before.

## DURHAM INDIAN LANDS ACT.

### CAP. IV.

AN ACT TO CHANGE THE TENURE OF THE INDIAN LANDS IN THE TOWNSHIP OF DURHAM.

[Assented to 21st April, 1856.]

Preamble.

**W**HEREAS an extent of eight thousand four hundred and ninety acres of land in the Township of Durham in Lower Canada, was granted, in the year one thousand eight hundred and five, to divers Indians, for them and their legal successors, under and by virtue of Letters Patent issued under the hand and seal of Sir Robert Shore Milnes, at that time Lieutenant Governor, on the condition that they should settle thereon and be incapable of selling, alienating, or even leasing the said Lands: And whereas the said Indians, or their legal successors or representatives, have in certain cases sold, leased or alienated all their rights in respect of such lands, for fixed sums of ground rents, and have all abandoned the said lands after having so conveyed them; And whereas the parties to whom such lands were so conveyed, have cleared and improved the same, erected buildings thereon and made agricultural settlements thereof, of great value, and the doubts which have arisen respecting the legality of such transactions are a great obstacle to the further

progress of the said settlements, and it is desirable, both in the interest of the Indians who do not reside any more on the said lands, and in that of the public of the said locality, that the said transactions should be rendered legal, in order to secure a just compensation to the former, and incontestible titles to the parties now in possession of the said lands: And whereas the Act passed in the eighteenth year of Her Majesty's Reign, and chaptered one hundred and sixty-seven, is insufficient for the object intended: Therefore Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

I. The Act intituled, *An Act to alter the Tenure of the Indian Lands in the Township of Durham*, is hereby repealed.

18 V. c. 167 repealed.

II. All conveyances, sales, promises of sale or emphyteotic leases in respect of the said lands by the said Indians, their successors or legal representatives, shall hereafter be considered as having been made by persons legally qualified to lease, alienate, sell cede and convey their property, notwithstanding anything to the contrary contained in the Letters Patent of such lands; Provided always, that an annual ground rent of Proviso. not less than ten dollars for each lot of two hundred acres shall have been stipulated in favor of the Indian to whom any such lot of land was originally granted, or his heirs or legal representatives; And provided also, that should Proviso. any contestation arise with respect to the said lands between the said Indians and the parties who have purchased or leased, or who shall hereafter purchase or lease the same, such contestation shall be referred to the Superintendent General of Indian Affairs, and his decision in the matter shall be final and conclusive.

Conveyances, leases, &c., by Indians declared valid.

III. Any purchaser of any lot or part of a lot of the Indian Lands in the Township of Durham, now in possession of the same, may, if he thinks fit, redeem the rent attached to such land or lot of land by any instrument within the provisions of the preceding section, and payable to the Indians or their legal representatives, by paying the capital thereof at the rate of six per cent., to the Superintendent General of Indian Affairs, who is hereby To whom payable. authorized to receive every such deposit and give a receipt therefor, according to Schedule A of this Act.

Purchasers in possession may redeem the rent attached to their lots.

IV. Every such receipt, after the enregistration thereof in the Registry Office of the County of Drummond, shall be equivalent to a title under Letters Patent of the Government, and shall discharge Receipt for redemption money to be equivalent to a Patent. every



every such lot or part of a lot designated in such receipt, from all rents or other charges which may have theretofore been payable on the same in favour of the Indian or Indians to whom such lands were granted by the Government.

Superintendent of Indian affairs to keep accounts of moneys paid.

V. The said Superintendent General of Indian Affairs shall keep an account of all sums deposited in his hands, and shall pay the interest thereon annually to the Indians, their legal representatives or assigns according to the proportion to which they are entitled in respect of such property.

Provision in case any Indian has sold the rent on a lot.

VI. In any case in which one or more of the aforesaid Indians shall, prior to the first day of January, one thousand eight hundred and fifty-five, have sold the rent attached to such land, the party who shall have *bona fide* and for a valuable consideration purchased the same, shall be entitled to be reimbursed the sum which he may have paid to such Indian or Indians, as and for the purchase money of such rent, or the sum so paid shall be deducted from the capital which he shall have to pay for the redemption of the said rent.

Act not to affect other claims to the lands.

VII. Nothing in this Act contained shall have the effect of determining in any manner the merits of conflicting titles of parties having claims to the said Indian lands in Durham, or of rendering valid contracts made by any parties with any others than the Patentee or Patentees, or his or their heirs or representatives.

Public Act.

VIII. This Act shall be deemed a Public Act.

### SCHEDULE A.

I hereby certify that \_\_\_\_\_, in the \_\_\_\_\_, now in possession of \_\_\_\_\_, range of the Township of Durham (here give a description of the lot or part of lot occupied by the person to whom the receipt shall have been given: If a whole lot, or the one half of a lot is in question, it shall be sufficient to describe it by the numbers of the lot and range, but if a smaller part than one half be referred to, the limits and bounds must be set forth) has, this day, paid to me the sum of \_\_\_\_\_ being the capital of a ground rent attached to said lot (or part of lot) of land, and that the said sum has been paid to me for the purpose of redeeming the said land from all rent, as provided by the Act, intituled, *An Act to change the tenure of the Indian Lands in the Township of Durham*, and to avail him as in law may apertain.

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Done

Done in duplicate, at \_\_\_\_\_, this \_\_\_\_\_ day of  
one thousand eight hundred and \_\_\_\_\_

A. B.,  
Superintendent General of Indian Affairs.

## AGRICULTURAL SOCIETIES, C. E.

### CAP. L.

AN ACT TO AMEND THE ACTS RELATING TO AGRICULTURAL SOCIETIES IN LOWER CANADA.

[Assented to 10th June, 1857.]

**W**HEREAS in and by the Act passed in the Session of one thousand eight hundred and fifty-six, and intituled: *An Act to amend the Act to provide for the better organization of Agricultural Societies in Lower Canada, and for other purposes connected with Agriculture in Upper and Lower Canada*, no provision is made for the recovery by the Treasurers of the County Agricultural Societies under that Act, of moneys which may yet remain in the hands of persons who have been Treasurers of former Societies existing before the passing of the Act of the year one thousand eight hundred and fifty-two, intituled, *An Act to provide for the better organization of Agricultural Societies in Lower Canada*, and it is expedient that such provision be made: Therefore Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

I. All sums of money in the possession of any Agricultural Society, formed before the passing of the said Act of one thousand eight hundred and fifty-six, or before the passing of the said Act of one thousand eight hundred and fifty-two, and remaining unexpended in the hands of any person who may have been the Treasurer of such former society, shall by him be paid over to the Treasurer of the present Society for the County or portion of a County comprising the County for which such former Society was formed, and in the event of the County for which such former Society was formed being now divided between two or more Counties, then to the Treasurers of the present Societies for such Counties or for portions of such Counties, in proportion to the population by the last Census of the respective portions of the territory of such former Society comprised

Moneys in the hands of Treasurers of former Societies to be paid over to present Treasurers, and in what proportions in certain cases.

comprised in the territories of such present Societies respectively, and shall be applied by the Treasurer to whom the same shall be so paid, or his successor, to the purposes of such present Society; And if any such moneys are not so paid over by the Treasurer of such former Society to the Treasurer of such present Society as hereinbefore mentioned, they may be recovered by the Society to whose Treasurer they ought to have been paid, as a debt due to such Society.

Act limited to  
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II. This Act shall apply only to Lower Canada.

## PERSONAL MORTGAGES AND SALES, C. W.

### CAP. III.

AN ACT TO AMEND THE STATUTES OF THIS PROVINCE RESPECTING MORTGAGES AND SALES OF PERSONAL PROPERTY IN UPPER CANADA, AND TO CONSOLIDATE THE SAME.

[Assented to 27th May, 1857.]

Preamble.

**W**HEREAS it is expedient to amend and consolidate the Law of Upper Canada concerning mortgages and sales of personal property, and to repeal the Statutes now in force on that subject: Therefore Her Majesty by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

What shall be necessary to the validity of a mortgage of personal property in Upper Canada not accompanied by delivery and change of possession.

Affidavit to be made and filed by mortgagee or his agent.

I. Every Mortgage, or conveyance intended to operate as a Mortgage, of goods and chattels, made in Upper Canada, which shall not be accompanied by an immediate delivery, and an actual and continued change of possession of the things mortgaged, shall be absolutely null and void as against creditors of the Mortgager, and against subsequent purchasers or Mortgagees in good faith for valuable consideration, unless the Mortgage or conveyance, or a true copy thereof, together with an affidavit of a witness thereto, sworn as hereinafter provided, of the due execution of the said Mortgage or conveyance, or of the due execution of the mortgage or conveyance of which the copy filed purports to be a copy, together with an affidavit of the Mortgagee or his agent properly authorized to take such Mortgage in writing, a copy of which authority shall be registered therewith (if such Agent be aware of all the circumstances connected therewith,) that the Mortgager therein named is justly and truly indebted to the Mortgagee in the sum mentioned therein, that it was executed in good faith and for the

express purpose of securing the payment of the money so justly due or accruing due, and not for the purpose of protecting the goods and chattels mentioned therein against the creditors of the Mortgager, or preventing the creditors of such Mortgager from obtaining payment of any claim against him, shall be registered as herein after provided within five days from the execution thereof.

Registration of mortgage.

II. Every sale of goods and chattels, which shall not be accompanied by an immediate delivery and followed by an actual and continued change of possession of the goods and chattels sold, shall be in writing, and such writing shall be a conveyance under the provisions of this Act, and shall be accompanied by an affidavit of a witness thereto of the due execution thereof, and an affidavit of the bargainee, or his agent duly authorized in writing to take such conveyance, a copy of which authority shall be attached to such conveyance, that the sale is *bonâ fide* and for good consideration, as set forth in the said conveyance, and not for the purpose of holding or enabling the bargainee to hold the goods mentioned therein against the creditors of the bargainor, and shall be registered as hereinafter provided, within five days from the executing thereof, otherwise such sale shall be absolutely void as against the creditors of the bargainor, and as against subsequent purchasers or Mortgagees in good faith.

What shall be necessary to a valid sale of such property, not accompanied by delivery and change of possession.

Registration of sale.

III. Any Mortgage of goods and chattels executed in good faith after the passing of this Act, for the purpose of securing any future advances, to be made upon an agreement in writing, entered into between the parties for making such advances, and for the purpose of enabling the Mortgager to enter into and carry on any business with such advances, the time of re-payment of such advances not being longer than one year from the making of such agreement and Mortgage, or for securing the Mortgagee against any endorsement of any bills or promissory notes or any other liability entered into for the Mortgager, not extending for a longer period than one year from the date of such Mortgage, and in which Mortgage is fully set forth, by way of recital or otherwise, the terms, nature and effect of such agreement, and the amount of liability intended to be created, if accompanied by an affidavit of a witness thereto of the due execution thereof, and an affidavit of the Mortgagee (or if the agreement has been entered into and Mortgage taken by an agent duly authorized in writing to make such agreement and take such Mortgage, if aware of the circumstances connected therewith, then by an affidavit of such agent) that such Mortgage truly sets forth the agreement entered into between

Mortgages of personals may be validly made as security against future liability, in certain cases.

Affidavit of mortgagee or his agent.

the parties thereto, and truly states the extent of the liability intended to be created by such agreement and covered by such Mortgage, and that such Mortgage is executed in good faith and for the express purpose of securing the Mortgagee against the payment of the amount of such his liability for the Mortgager, and not for the purpose of securing the goods and chattels mentioned therein against the creditors of the Mortgager, nor to prevent such creditors from recovering any claims which they may have against such mortgager, and registered as hereinafter provided, shall be as valid and binding as Mortgages mentioned in the preceding section of this Act.

Registration of mortgage.  
Efficient description of the property required.  
 IV. All the Instruments mentioned in this Act, whether for the sale or Mortgage of goods and chattels shall contain such efficient and full description thereof that the same may be thereby readily and easily known and distinguished.

Where the Instrument creating the mortgage may be registered.  
 V. The Instruments mentioned in the preceding sections shall be registered in the office of the Clerk of the County Court of the County or Union of Counties where the Mortgager or bargainer therein, if a resident of Upper Canada, shall reside at the time of the execution thereof, and if he be not a resident, then in the office of the Clerk of the County Court of the County or Union of Counties where the property so mortgaged or sold shall be, at the time of the execution of such instrument; and such Clerks are hereby required to file all such instruments aforesaid presented to them respectively for that purpose, and to endorse thereon the time of receiving the same in their respective offices, to be kept there for the inspection of all persons interested therein, or intending or desiring to acquire any interest in the property or any portion thereof covered thereby.

Entry of Instruments filed, to be made by the Clerk.  
 VI. The said Clerks shall respectively number every such instrument or copy which shall be filed in their offices, and shall enter in books to be provided by them, in alphabetical order, the names of all parties to such Instruments, with the numbers endorsed thereon opposite to each name, which entry shall be repeated alphabetically under the name of every party thereto.

Case of the removal of the mortgaged property to another County provided for.  
 VII. In the event of the permanent removal of goods and chattels mortgaged as aforesaid from the said County or Union of Counties in which they may be at the time of the execution of such mortgage, to another County or Union of Counties before the payment and discharge of such mortgage, a certified copy of such mortgage under the hand of the Clerk of the County Court in whose office it was first registered, and under the seal of the said

said Court, and of the affidavits and documents and instruments relating thereto and filed in such office, shall be filed with the Clerk of the County Court of the County or Union of Counties to which such goods and chattels are removed, within two months from such removal, otherwise the said goods and chattels shall be liable to seizure and sale under execution, and in such case, such mortgage shall be null and void as against subsequent purchasers and mortgagees for valuable consideration as if never executed.

VIII. Every Mortgage or copy thereof filed in pursuance of this Act shall cease to be valid as against the creditors of the persons making the same, and against subsequent purchasers or mortgagees in good faith for valuable consideration, after the expiration of one year from the filing thereof, unless within thirty days next preceding the expiration of the said term of one year, a true copy of such mortgage, together with a statement exhibiting the interest of the mortgagee in the property thereby claimed by virtue thereof, and a full statement of the amount still due for principal and interest thereon and of all payments made on account thereof, shall be again filed in the office of the Clerk of the said County Court of the County or Union of Counties wherein such goods and chattels are then situate, with an affidavit of the mortgagee or his agent duly authorized in writing for that purpose, (which authority shall be filed therewith), stating that such statements are true, and that the said mortgage has not been kept on foot for any fraudulent purpose.

Privilege to cease after a certain period unless certain requirements are complied with and statements filed.

IX. A copy of such original instrument or of any copy thereof, so filed as aforesaid, including any statement made in pursuance of this Act, certified by the Clerk in whose office the same shall be filed under the seal of the Court, shall be received in evidence in all Courts, but only of the fact that such instrument or copy and statement was received and filed according to the endorsement of the Clerk thereon, and of no other fact; and in all cases the original endorsement by the Clerk made in pursuance of this Act, upon such instrument or copy, shall be received in evidence only of the fact stated in such endorsement.

Effect of Clerk's certificate of mortgage filed.

X. This Act shall not apply to mortgages of vessels registered under the provisions of the Act passed in the eighth year of Her Majesty's Reign, and intituled, *An Act to secure the right of property in British Plantation vessels navigating the inland waters of this Province, and not registered under the Act of the Imperial Parliament of the United Kingdom, passed in the third and fourth years of the Reign of His late Majesty King William the Fourth, intituled, An Act for the registering of British vessels,*

Act not to apply to mortgages of vessels under 8 V. c. 5.

and

*and to facilitate transfers of the same, and to prevent the fraudulent assignment of any property in such vessels.*

**Interest or equity of redemption may be sold in execution.** XI. On any writ, precept or warrant of execution against goods and chattels, it shall be lawful for the Sheriff or other officer to whom such writ, warrant or precept may be directed, to seize and sell the interest or equity of redemption in any goods and chattels of the party or parties against whom such writ may issue; and such sale shall be held to convey whatever interest the mortgager had in such goods and chattels at the time of such seizure.

**Fees for services under this Act.** XII. For services under this Act the Clerks aforesaid shall be entitled to receive the following fees:—For filing each instrument and affidavit, and for entering the same in a book as aforesaid, one shilling and three pence, for searching for each paper, six pence; and for copies of any document, with certificate prepared, filed under this Act, six pence for every hundred words.

**Fees on affidavits.** XIII. All affidavits and affirmations required by this Act shall be taken and administered by any Judge or Commissioner of the Courts of Queen's Bench or Common Pleas, or Justice of the Peace in Upper Canada, and the sum of one shilling shall be paid for each and every oath thus administered.

**Acts 12 V. c. 74. and 13, 14 V. c. 62, repealed.** XIV. The Act passed in the twelfth year of Her Majesty's Reign, chapter seventy-four, intituled, *An Act requiring mortgages of personal property in Upper Canada to be filed*, and the Act passed in the session held in the thirteenth and fourteenth years of Her Majesty's Reign, chapter sixty-two, intituled, *An Act to alter and amend the Act requiring mortgages of personal property in Upper Canada to be filed*, shall be and the same are hereby repealed; but all mortgages and sales registered under the provisions of the said Acts, or either of them, shall be held and taken to be as valid and binding as if the said Acts had not been hereby repealed.

**Commencement of Act.** XV. This Act shall take effect from and after the first day of August next.

**Extent of Act.** XVI. This Act shall apply to Upper Canada only.

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# PRIMOGENITURE AMENDMENT—ACT.

## CAP. LXV.

AN ACT TO AMEND THE ACT TO ABOLISH THE RIGHTS OF PRIMOGENITURE, AND TO AFFORD RELIEF TO PARTIES SUCCEEDING TO THE REAL ESTATE OF PERSONS DYING INTESATE, IN CERTAIN CASES IN UPPER CANADA.

[Assented to 10th June, 1857.]

**W**HEREAS it frequently happens in cases of persons dying intestate, leaving real estate in Upper Canada, that by reason of the absence therefrom of the minority of some of the parties entitled to participate in the succession to such real estate, no title can be made to the same without great delay, expense and inconvenience, and it is desirable to provide some remedy therefor: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

I. The Judge of the Surrogate Court in each of the Counties or Unions of Counties in Upper Canada, having jurisdiction within such County or Union of Counties, shall be the "Real Representative" for all real property within such County or Union of Counties, in respect of or to which, any person being seized of or entitled to an estate in fee simple therein, shall die intestate.

Judge of Surrogate Court to be the real representative of intestate as regards lauds in his County.

II. From and after the expiration of six months from the death of any person dying intestate, seized of or entitled to such real estate as aforesaid, it shall and may be lawful for any one or more persons entitled to a share or interest in such estate and the immediate possession thereof, being of full age, to apply to either of the Superior Courts of Law or Equity or to the County Court of the County or Union of Counties where such estate is situate, for a division or partition thereof, or for a sale thereof if such sale shall by such Court be considered more advantageous to the parties interested.

Application may be made for a partition of such estate.

By whom and to what Court.

III. The application to any Court for a partition or sale, shall particularly describe the premises sought to be divided or sold, and set forth the interest of the petitioner and the rights and titles of all persons interested therein, so far as the same are known to the petitioner, including the interest of any tenant for years, for life, by the courtesy or in dower, or in case any one or more of such parties, or the share or quantity of interest of any of the parties, be unknown to such petitioner, the same shall be set forth in such

What the application for partition or sale must set forth.

petition:



petition: and the truth of such petition and the matters contained therein shall be verified by the oath or affirmation of the petitioner, to be taken before any Commissioner for taking affidavits, or before any of the Judges of the said Courts.

Parties to such application.

Notice to minors, and appointment of guardians to them.

IV. Every person having any such interest as aforesaid, may be made a party to such petition, and if any of the parties so interested are minors and it shall be satisfactorily proved to the Court that at least fourteen days' notice has been served on such minors as reside in this Province, of an intention to apply to such Court for an order for partition or sale, such Court shall thereupon appoint a suitable and disinterested person to be guardian for one or more of such minors, whether the said minors reside within or without this Province; for the special purpose of taking charge of the interests of such minors in the proceedings upon such petition.

Guardian to give security.

Condition.

Their powers thereafter.

V. Every guardian so appointed, shall, before entering upon his duties, execute a bond, in such penalty and with such surety as the Court shall direct, to the "Real Representative" of the County or Union of Counties where such estate is situate, by his name of office, conditioned for the faithful discharge of the trust committed to him, and to render a just and true account of his guardianship, when thereto required by the Court, and no proceedings shall be taken upon the petition until such bond is filed in the office of the Court; and after the execution and filing of such bond, such guardian shall represent his minor in the proceedings upon the said petition, and his acts in relation thereto shall be binding on such minor, and shall be as valid as if done by such minor after having arrived at full age.

Provisions as to creditors having a lien on the property or any part thereof.

Service of copy of petition on parties interested not joining therein, and resident in Canada.

VI. It shall not be necessary in the first instance to make any creditor having a lien on such estate or any part thereof, by judgment, decree, mortgage or otherwise, a party to the proceedings, nor shall the partition or sale of the estate alter, affect or impair the lien of such creditor, but the petitioner may make such creditor a party, and in such case the petition shall set forth the nature of any such lien or incumbrance, and if such lien or incumbrance is on the undivided interest or estate of any of the parties to the petition, it shall be a lien only on the share of such party, and such share shall be first charged with its just proportion of the costs of the proceedings in partition, in preference to any such lien.

VII. A copy of such petition, with notice that the same will be presented to the Court on some certain day in term, shall be served thirty days inclusive, previous to such term, on all the parties interested

interested in such estate who shall not have joined in such petition, and are resident in this Province, and on the guardians of such as are minors, who shall have been appointed such guardians as aforesaid; and every such notice shall be addressed to all the parties interested who are known, and generally to all others unknown, having or claiming any interest in such estate.

VIII. If any parties having such interest are unknown, or if known, reside out of this Province or cannot be found therein, the petition and notice may be served on such unknown or absent party, by publishing the same three months previous to the presentation of such petition, once in each week successively, in the *Canada Gazette*, and in a paper printed and published in the County or Union of Counties where the estate is situate, and if there be none, then in the *Canada Gazette* alone, which shall be equivalent to a personal service on such unknown or absent parties, or such petition and notice may be served personally on any known absent party, forty days previous to its presentation, without publishing the same.

Notice to absent and unknown parties.

Service may be made on absent parties if known.

IX. Upon the presentation of such petition, and satisfactory proof of the service or publication thereof with the notice as aforesaid, and of the facts justifying the mode of publication, the Court shall, by rule, allow such petition, and thereupon the parties interested in the estate shall appear and shew title to the proportions which they claim of the premises set forth in the petition, within the time of pleading, according to the practice of the said Court.

On proper proof, petition to be allowed, and parties to shew title.

X. Notice of the rule of allowance, and all other notices in any subsequent proceedings, unless otherwise specially directed, may be served by affixing the same in the office of the Clerk of the Court, which shall be equivalent to personal service on the party to be affected thereby.

Service of notice of allowance and subsequent notices.

XI. Any party appearing may plead, either separately or jointly with one or more of his co-defendants, that the petitioners or any of them, at the time of presenting the petition, were not entitled to or in possession of the premises or any part thereof, or that the defendants or any of them did not hold the premises together with the petitioners at the time of the commencement of the proceedings, as alleged in the petition; and such pleas shall form a complete issue, and any matters to support the claim or defence of either party may be given in evidence thereunder.

Pleadings and proof in the case.

Issue and evidence.

XII. Any defendant may also deny the interest of any party made co-defendant, and the issue

A defendant may deny title of a co-defendant.

thereon

thereon may be tried at the same time as the other issues on the petition.

Trial of the issues raised in the case.

XIII. All issues so joined shall be tried on a record made up of the said petition and the defence made in pleading thereto, and the like proceedings had thereupon in every respect as in personal actions, as to new trials, amendments and any other particulars.

Petitioners must shew title though the opposite party make default, &c.

XIV. If judgment shall be entered against any of the defendants by default for want of a plea, the Court shall still require the petitioners to exhibit proof of their title, and from such proofs, or from the confession by plea of the parties, if they appeared, or from the verdict of a jury by which any issue of fact shall have been tried, the Court shall declare the rights, title and interest of the parties to such proceedings, plaintiffs as well as defendants, and shall determine the rights of the parties to such estate and give judgment that such partition be made between such of them as have any rights therein, according to such rights, but not so far as to affect any parties whose rights have not been ascertained.

Real Representative to carry out the judgment of partition.

XV. Whenever any judgment of partition shall be rendered, the Court shall, by rule, order the Real Representative to make the partition so adjudged, according to the respective rights and interests of the parties, as the same were ascertained and determined by such Court; and in such rule the Court shall designate the part or shares which remain undivided for the owners whose interests shall be unknown and not ascertained; and the Real Representative shall forthwith proceed to make such partition according to the judgment of the Court, unless it shall appear to him that partition cannot be made without prejudice to the owners of the estate, in which case he shall make a return of such fact to the Court in writing under his hand.

How the partition shall be made.

XVI. In making a partition, the Real Representative shall divide the said real estate, and allot the several portions and shares thereof to the respective parties, as adjudged by the Court, designating the several shares by post stones or other permanent monuments, and he may employ a Surveyor to assist him therein; and he shall report to the said Court in writing, the manner in which he has divided the said estate, and the share allotted to each party, with the quantity, and courses and distances of the boundaries of each share, and a description of the posts, stones or other monuments, together with an account of his fees, which, together with any charges for Surveyors, shall be ascertained and allowed by the Court, and the amount shall be paid

Surveyor.

Report.

Costs.

paid by the petitioners, and shall be allowed to them as part of the costs to be taxed.

XVII. The said report shall be proved by affidavit before any Commissioner for taking affidavits, and shall be filed in the said Court, and a copy thereof, after the report is confirmed by the Court, certified under the hand of the Clerk and Seal of the said Court, shall be registered in the County Register, on the production thereof to the Registrar of the County or Union of Counties where such estate is situate.

*Proof, filing and registration of the report of partition.*

XVIII. Upon the return of such report, the Court shall confirm the same, or in its discretion, remit the same back to the Real Representative for amendment in any particular or particulars in which there is manifest error; and upon any final confirmation, judgment shall thereupon be given that such report is confirmed, and such judgment shall be binding and conclusive on all known parties named in the said petition, and all unknown parties where such publication as aforesaid has been made, and all persons claiming from or through them; but such judgment shall not affect any persons having claims as tenants in dower, by courtesy or for life, to the whole of the premises which shall be the subject of such partition, nor any person not named in the petition either originally or by amendment, nor any unknown person when there has been no such publication as aforesaid.

*Confirmation of report; after amendment if required.*

*Effect of such confirmation.*

*Certain parties not to be affected*

XIX. If upon the Report of the Real Representative, the Court shall see fit to order sale of the estate, it shall be lawful for the Court so to do, and by a rule to be made on filing such report, the Court may order the Real Representative to sell the estate at public auction to the highest bidder; and in such order the Court shall direct the terms of credit which may be allowed for any portions of the purchase money of which it shall think proper to direct the investment, and for such portions of the purchase money as are required, by the provisions hereinafter contained, to be invested for the benefit of any unknown owners, infants, parties out of the Province, or any tenants for life, in dower or by courtesy; such portions of the purchase money for which credit is so allowed, to be secured at interest by a mortgage of the premises sold, by a bond of the purchaser and by such other security as the Court shall prescribe.

*Sale may be ordered by Court, and how to be made: credit, for part of purchase money in certain cases: how secured.*

XX. The Real Representative may take separate mortgages and other securities, for such convenient shares or portions of the purchase money as are directed by the Court to be invested as aforesaid, in his

*Real representative may take mortgages for moneys to be invested.*

own

own name of office, as Surrogate Judge and Real Representative for such County or Union of Counties, and his successors in office, and for such shares as any known owner of full age shall desire to be invested, in the name of such owner; and upon such sales being confirmed, the Real Representative shall deliver such Mortgages to the Clerk of the Court, or to the known owners whose shares were so invested.

How creditors having specific liens on the property and not made parties to the petition shall be called in, and their liens dealt with.

XXI. Before making any order for sale, where the creditors having specific liens shall not have been made parties, the Court, on motion of either party, shall direct the Petitioner to amend his Petition by making every creditor having a specific lien on the whole estate, or on the undivided interest or estate of any of the parties, by mortgage, judgment or otherwise, a party to the proceedings, and shall direct the Clerk of the Court to ascertain and report whether the shares or interests in the premises of the parties in such suit, or any of them, are subject to any general lien or incumbrance by judgment or decree, and such clerk shall forthwith cause a notice to be published once a week for four weeks in the *Canada Gazette*, and also in a newspaper, if there be one, in the County or Union of Counties in which such estate is situate, requiring all persons having any general lien or incumbrance on the estate or on any undivided interest or share therein, by mortgage, judgment decree or otherwise, to produce to the said clerk on or before a certain day to be named in such notice, proofs of all such liens and incumbrances, together with satisfactory evidence of the amount due thereon, and the clerk shall report with all convenient speed, the names of the creditors, the nature of the incumbrances, the dates thereof, and the several amounts appearing to be due thereon, and thereupon the Court shall order the Real Representative to bring into Court and pay to the Clerk the whole purchase money, if the lien be on the whole estate, or the portion thereof arising from the sale of the part charged with the lien, after deducting the portion of the costs, charges and expenses to which it shall be liable.

Application of party entitled to a share of the estate, for payment of his share of the purchase money.

XXII. Any party entitled to a share of the estate, may apply to the Court to order such part of the purchase money as he shall claim, to be paid to him, on affidavit showing the amount truly due on each incumbrance, if any, the owner of such incumbrance, and his residence as far as known to such party, and also, on proof of the due service of a notice on each incumbrancer, of the intention to make such application, at least ten days previous thereto, such service to be personal, or on a grown up person at the residence of such incumbrancer, if residing in this Province, and if residing out of this Province, by personal service

vice thirty days previously, or by publishing the notice once a week for four weeks in the *Canada Gazette*.

XXIII. Upon such application, and proof of notice being given, the Court shall proceed to hear the allegations and proofs of the parties, and after the amount of incumbrances shall be ascertained, shall order a distribution of the moneys so brought into and remaining in Court, among the several parties having such incumbrances, according to the priority thereof respectively, and the Clerk of the Court shall procure satisfaction thereof to be acknowledged, in the form required by law, and shall cause the incumbrances to be duly satisfied or discharged of record, defraying the expenses out of the moneys payable on the share or shares which were so incumbered; Provido, that such proceedings to ascertain and value the amount of incumbrances, shall not affect or delay the paying over or investing of money to or for any party upon whose estate in the premises there shall not appear to be any existing incumbrance.

Hearing and proof: ascertaining amount of incumbrances and payment thereof.

XXIV. Whenever the estate of any tenant in dower to the whole or part of such estate, or of any tenant by courtesy or for life to any part of the estate, has been admitted by the parties, or ascertained by the Court to be existing at the time of the order for such sale, and the person entitled to such estate has been made a party to the proceedings, the Court shall first determine whether such estate ought to be exempted from the sale, or whether the same should be sold; and in making such determination, regard shall be had to the interests of all the parties, and if a sale be ordered including such estate, all the estate and interest of every such tenant shall pass thereby, and the purchaser, his heirs and assigns, shall hold such premises free and discharged from all claims by virtue of the estate or interest of any such tenant, whether the same be to any undivided share, or to the whole or any part of the premises sold; and the Court shall direct the payment of such sum in gross out of the purchase money, to the person entitled to such dower or estate by courtesy or for life, as shall be deemed, upon the principle applicable to life annuities, a reasonable satisfaction for such estate.

Case of tenant in dower, by courtesy or for life; if sale be made such tenant shall be satisfied out of proceeds, and how.

XXV. When any married woman shall be a party to such proceedings, the petition shall be by her and her husband, and the service or notice of such petition shall be upon her and her husband, and the judgment or decree shall be binding in such case upon her and her husband, and all claiming through her or them; and if her claim be an inchoate right of dower, in any case of sale, the

When married woman is a party, her husband to be joined.

If her claims be for an inchoate right or dower. Court shall determine the value of such right according to the principles applicable to deferred annuities and survivorships, and shall order the amount of such value to be paid to her and her husband on their joint release under seal, and such order and the payment and release thereon shall be a valid and effectual bar to any right or claim of dower.

Notice of sale and report thereof.

XXVI. The Real Representative shall give notice of any sale to be made by him, for the same time and in the same manner as is required by law on sales of real estate by sheriffs on execution, and the terms of such sale shall be made known at the time of the sale, and after the completion thereof he shall report the same in writing to the Court, with a description of the different parcels of land sold to each purchaser, and the price paid by him; and on the filing such report, if such sales be approved and confirmed by the Court, an order shall be made directing the Real Representative to execute deeds pursuant to such sales, and such deeds so executed shall be recorded in the County where the lands lie, on a memorial thereof, in the same manner as other deeds, and shall be a bar both in law and equity, against all parties interested in the premises, who shall have been named in such proceedings, as parties, and against all unknown parties where notice was published as aforesaid, and against all persons claiming under or through them, and also against all incumbrancers, where the notice hereinbefore mentioned has been given to them.

Division of proceeds and payment or investment of shares thereof; Court may require security to be given.

XXVII. The proceeds of such sale, after deducting all costs, shall be divided among the parties whose rights and interests shall have been sold, in proportion to their respective rights in the premises, and the shares of such as are of full age shall be paid to them by order of Court, and in the case of infants, unknown or absent parties, shall be invested for them, in the name of the Real Representative and his successors in office, until lawfully claimed by them or their legal representatives; and the Court may in its discretion require all or any of the parties, before they shall receive any share of the moneys arising from such sale, to give security to the satisfaction of such Court, to refund the said shares, with interest thereon, in case it shall hereafter appear that such party was not entitled thereto.

Securities to be deposited with the Clerk of Court who shall receive and apply the money under order of Court.

XXVIII. All securities shall be taken in the name of the Real Representative and his successors in office, except when directed to be taken in the name of any known party, and shall be delivered to and kept by the Clerk of the Court, who shall receive the interest and principal thereon, and apply or invest



invest the same as the Court shall direct, and shall in each term render to the Court an account in writing under oath, of all moneys received by him and of the application thereof, and upon any refusal to render such account, or any misapplication of the funds, he shall be liable to be proceeded against and punished for embezzling the moneys of the Real Representative as in ordinary cases of embezzlement of a clerk or servant.

XXIX. All investments of moneys arising from sales, shall be made in Provincial or Consolidated Municipal Loan Fund Debentures.

Investments to be in certain Debentures only.

XXX. The Court shall apportion the costs of the proceedings on the petition according to the respective shares and interests of the parties known or unknown, and shall direct the same to be paid to the petitioners, and such order shall operate as a judgment for such costs, and on a copy thereof being filed in the County Registry Office where the lands lie, shall be a charge for such proportion, against the shares representing such proportion, and execution may issue thereon as in ordinary cases of costs, and such share or interest may be sold thereon and a valid title on such sale given to the purchaser thereof, as in the cases of sales by sheriffs in execution; and if judgment be rendered against the petitioners for any cause, the Court shall adjudge the costs against them, to be recovered as in cases of personal actions.

Costs of proceedings how to be apportioned, and recovered or secured.

XXXI. The proceedings upon petition, if commenced in a County Court, may be removed into either of the Superior Courts of Law or Equity by *certiorari* at any time before judgment, to be allowed by any judge of such Court, on security being given by the party applying for the *certiorari*, for the costs of the proceedings on petition, to the satisfaction of such judge; and upon any final judgment, decree or order, an appeal may be had by any of the parties interested, in the same manner and with the same consequences as in other cases of appeal, from the decision of any Court rendering such judgment, decree or order.

Removal of proceedings by *certiorari*.

Appeal allowed as in other cases.

XXXII. Where the interests in such estate are equitable fees simple, the Court of Chancery alone shall have the same powers, upon petition or bill filed in that Court, to act thereupon, as are hereby given to the Courts of Law and Equity in other cases, and the same notices shall be given, served, published and verified, guardians of minors appointed, and the same rules apply as to parties, and the like proceedings be had, as hereinbefore directed.

Powers of the Court of Chancery when the interests are equitable fees simple.

XXXIII. In the month of January of every year after the passing of this Act, the Clerk of the Court having the custody of any bonds, mortgages or investments arising from sales of such

Statement to be published yearly by Clerks of Courts of moneys in their hands and unclaimed.



estates, for the benefit of any unknown, absent, infant or lunatic parties, where no claim has been made on their behalf for any interest or principal of such investments during the preceding year, shall cause to be published in the *Canada Gazette*, and in one newspaper in the County or Union of Counties in which such lands are situate, weekly, for the period of four weeks, a statement of the securities or investments remaining unclaimed, showing the name of the intestate party, the amount unclaimed, and the property from which the claim has arisen, and such statement shall be verified by the clerk, and a copy thereof filed among the records of the Court.

Intituling proceedings under this Act.

XXXIV. All proceedings in petition shall be intituled, "In the matter of the estate of A. B. who died intestate," and shall require no other title, except the name of the Court in which such proceedings are had; and the judges of the Superior Courts of Common Law and the Court of Chancery shall make such tariff of fees and rules and orders, for the proceedings on petitions at Law and in Equity, respectively, as they shall deem expedient and advisable.

*(See pages 333 to 334, in this work, respecting repealed sections and those still in force in this Act.)*

## MATRIMONY AMENDMENT ACT (C.W.)

### CAP. LXVI.

AN ACT TO AMEND THE LAWS RELATING TO THE SOLEMNIZATION OF MATRIMONY IN UPPER CANADA.

*[Assented to 10th June, 1857.]*

**W**HEREAS under the Laws now in force in Upper Canada, privileges are claimed with regard to the solemnization of matrimony, by the Clergy and Ministers of certain denominations, which are partial in their character and offensive to other certain religious denominations and their Clergymen and Ministers; Therefore Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada enacts as follows:

Ministers of any denomination may solemnize marriage.

I. From and after the passing of this Act, the Ministers and Clergymen of every religious denomination in Upper Canada, duly ordained or appointed according to the rites and ceremonies of the Churches or denominations to which they shall respectively belong, and resident in Upper Canada, shall have the right to solemnize the ceremony of matrimony, according to the rites, ceremonies and usages of such Churches and Denominations respectively, by virtue of such ordination or appointment.

II. Every Clergyman and Minister who shall celebrate matrimony in Upper Canada, from and after the time of the passing of this Act, shall, if required, at the time of such marriage by either of the parties thereto, give a certificate under his hand of such marriage, specifying the names of the parties married, the time and the names of two or more persons who witnessed such marriage, and whether such marriage was solemnized pursuant to License or publication of banns; and for every such certificate, the Clergyman or Minister giving the same shall be entitled to ask, demand or receive from the party so requiring the same, the sum of one shilling and three pence.

Ministers marrying must give certificate if required.

Fee for certificate.

III. From and after the first day of January, one thousand eight hundred and fifty-eight, every Clergyman or Minister shall, immediately after the solemnization by him of any marriage, enter in a book to be by him kept for that purpose, which book shall be and continue to be the property of the church or denomination to which he shall belong at the time of such marriage, a true record of such marriage, embracing all the particulars set forth in the body of the schedule hereunto annexed; and on or before the first day of February, in each and every year, after the year one thousand eight hundred and fifty-eight, it shall be the duty of every such Clergyman, and he is hereby required to return a certified list according to the form and specifying the particulars in the said schedule set forth, of all marriages by him solemnized during the year ending on the thirty-first day of December, then next preceding, to the Registrar of the County in which such marriage shall have taken place, and at the time of making such return, to pay or transmit to such Registrar the sum of five shillings for every such list; and on the receipt by such Registrar of every such list, it shall be his duty to file the same among the papers of his office, and to record the same in a book to be kept by him for that purpose; and every such register, or a certified copy thereof, shall be considered in the case of the death or absence of the witnesses to any such marriage, as a sufficient evidence thereof; and the said Registrar is hereby required to give a certified copy of any such marriage record to any person demanding the same, on the payment of the sum of two shillings and sixpence; and every such Clergyman or Minister shall, before solemnizing such marriage, be entitled to ask, demand and receive from either of the parties to such marriage, the sum of ten shillings, to enable him to pay the said sum so to be paid or transmitted by him to such Registrar, and to remunerate him the said Clergyman or Minister, for the trouble and expense attendant on the preparing and transmission of such

Ministers to enter every marriage in a Book, with particulars as per Schedule;

And make a return of all marriages yearly to the Registrar of the County.

Registrar's duties and effects of copies from Registrar.

Fees to Registrars for copies.

Fees to Minister for marrying.

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certified list to such Registrar; and every such Clergyman or Minister who shall refuse or neglect to return such certified list as aforesaid, shall forfeit and pay for every day he shall so neglect or refuse, beyond the time respectively herein fixed for making such return, the sum of one pound, which shall be recoverable before any Magistrate of the County in which such Clergyman or Minister shall reside, with costs, and shall be applied as fines now inflicted under the Summary Convictions Acts of Upper Canada: Provided, however, that nothing in this Act contained shall be construed or held to prevent the payment to the officiating Clergyman or Minister of such remuneration as the parties may see fit to make.

Proviso; parties married may give what remuneration they think fit.

IV. In the event of the death or removal of any Minister or Clergyman before making the annual return hereinbefore provided for, it shall be the duty of his successor or other person having the legal custody of the book referred to in the next preceding section of this Act, to transmit to the Registrar of the County in which any such marriage shall have taken place, a certified copy of all marriages therein recorded, in the same manner as is provided for, and subject to the same penalties for neglect or non-performance of such duty, as is mentioned in the next preceding section, and such Registrar shall record the same as if such return had been made by the Minister or Clergyman who *de facto* celebrated such marriage.

Punishment of persons not being Ministers pretending to solemnize marriage.

V. Any person not being a Clergyman or Minister of a religious denomination existing in Upper Canada, who shall solemnize or pretend to solemnize matrimony under the provisions of this Act, and any person who shall falsely personate any Clergyman or Minister for the purpose of officiating at any such ceremony, shall be guilty of misdemeanor, and shall be liable for every such offence to be imprisoned in the Provincial Penitentiary, for a period not exceeding two years, or to suffer such other punishment, either by fine or imprisonment, or both, as any Court of Record having competent jurisdiction in Upper Canada shall deem meet and just; and it shall rest upon any person accused of such offence to prove the fact of his being a duly ordained or appointed Minister or Clergyman of the religious denomination to which he shall profess to belong, and that such denomination had at the time of the solemnization of such marriage a known existence in Upper Canada.

Proof of ordination or appointment to lie on defendant.

Punishment of persons procuring persons not Ministers to pretend to marry, &c.

VI. Any person knowingly procuring any other person not being a Minister or Clergyman of some religious denomination existing in Upper Canada, to perform the ceremony of matrimony, or who shall knowingly

aid or abet any such pretended Clergyman or Minister in performing such ceremony, shall be guilty of misdemeanor, and shall be liable to the punishment provided for in the next preceding section of this Act.

VII. Every marriage which shall be duly solemnized according to the rites usages and customs of the Religious Society of Friends, commonly called Quakers, shall be and is hereby declared valid, and the duty imposed by the third section of this Act, upon every Minister and Clergyman, with regard to marriages solemnized by them, shall, with regard to such marriages, be performed by the Clerk or Secretary of the Society or Meeting where such marriage was solemnized, and in default of the performance of any such duty by any such Clerk or Secretary, he shall be liable to the penalty prescribed by the said third section, for default, in the case therein named.

Quakers' marriages declared valid.

Who shall send the return to the Registrar.

VIII. It shall be the duty of the Clerk of the Peace of each County or Union of Counties in Upper Canada, to procure without delay from the Queen's Printer, a sufficient number of copies of this Act to enable him to mail one to the address of each Clergyman or Minister entitled to solemnize Matrimony under the provisions of this Act, whom he shall know, or shall ascertain at any time within six months from and after the passing of this Act, to be resident in such County or Union of Counties, and to mail the same accordingly; and also from time to time to furnish all such Clergymen or Ministers on demand with the books and with printed blank forms for the lists to be used and returned by them in pursuance of this Act, and such books shall have columns and headings printed on each page thereof, according to the form of the Schedule hereunto annexed, and shall, as shall also the blank forms aforesaid, be of such size and form as to admit of the necessary entries being conveniently made therein; and the cost of such books and forms, as well as of procuring and distributing copies of this Act as aforesaid, shall be borne by the Counties or Union of Counties respectively.

Clerks of the Peace to mail copies of this Act to Ministers entitled to marry under it.

And to furnish books and printed forms.

Cost thereof how paid.

IX. Copies of this Act shall be mailed from the office of the Provincial Secretary to the addresses of the Clerks of the Peace of the several Counties and Unions of Counties in Upper Canada respectively as soon as conveniently may be after the passing of the same.

Copies of this Act to be sent to Clerks of the Peace.

X. All Acts and parts of Acts inconsistent with this Act, shall be and the same are hereby repealed.

Inconsistent enactments repealed.

XI. This Act shall apply to Upper Canada only.

Act limited to U. C. only.

SCHEDULE.

RETURN of Marriages solemnized by \_\_\_\_\_, a Minister of \_\_\_\_\_ for the year ending \_\_\_\_\_  
 31st day of December, A. D. \_\_\_\_\_

BRIDEGROOM.			BRIDE.			WITNESS.		DATE OF MARRIAGE.				
His Name known.	Age if known.	Residence.	Place of Birth, if known.	Names of Parents, if known.	Her Name, if known.	Age if known.	Residence.		Place of Birth, if known.	Names of Parents, if known.	Name.	Residence.

I do hereby certify that the foregoing is a true and correct statement of all Marriages solemnized before (as the case may be) for the year ending on the 31st day of December next preceding the date hereof.

(Signed,)

A. B.

(Minister or Clerk, as the case may be.)

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# MUNICIPAL LAWS ACT.

## CAP. LXVII.

AN ACT TO AMEND THE MUNICIPAL LAWS OF UPPER CANADA RELATING TO THE INCORPORATION OF VILLAGES.

[Assented to 10th June, 1857.]

**W**HEREAS by the Municipal Laws of Upper Canada, no provision is made for the incorporation of Villages until after the taking of the periodical Census, and much more inconvenience and unnecessary delay are occasioned thereby: Therefore Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Preamble.

I. Whenever any Village not now incorporated shall contain over seven hundred and fifty, and less than three thousand inhabitants, it shall and may be lawful for any number, not less than one hundred of the resident freeholders and householders of such Village, after having given one month's notice in some newspaper published in each County in which such Village may be situated, to petition the Governor of this Province, that such Village may be erected into or set apart as an incorporated Village, and the inhabitants thereof incorporated under the provisions of the Municipal Laws of Upper Canada; And upon such petition it shall be lawful for the said Governor, on being satisfied by a Census to be taken and verified by the oath of two credible witnesses, that any such Village contains more than seven hundred and fifty inhabitants, by an Order in Council to issue a Proclamation under the Great Seal of this Province, erecting or setting apart such Village as an incorporated Village, by a name to be given in or by such Proclamation, and to set forth in such Proclamation the boundaries for such Village, including within such boundaries any portion of the Township or Townships which from the proximity of streets or buildings therein, may be conveniently attached to such Village, and when such Village shall have grown up on the confines of two or more Counties, or two or more Ridings of the same County, or of two or more Electoral Divisions, so as to lie partly within the limits of each, to annex the whole of such Village as incorporated to some one of such Counties or Ridings or Electoral Divisions exclusively; and the inhabitants of such Village shall, on, from and after the first day of January next, after the end

Any Village containing between 750 and 3,000 inhabitants may be incorporated by proclamation on complying with certain conditions.

Boundaries to be assigned.

Case of Village partly within two Counties provided for.

Effect of such incorporation.

A. B. (Minister or Clerk, as the case may be.)

(Signed,)

of one calendar month from the *teste* of such Proclamation, be incorporated, and the said Village shall become an incorporated Village, apart from the Township or Townships in which it is situate; and the first election for such Village shall be held in the manner prescribed in the Upper Canada Municipal Acts, on the first Monday in January aforesaid, and such Village shall from thenceforth form a part of the County to which it shall have been annexed as aforesaid, and shall be subject to the same regulations and provisions and shall have and be entitled to the same immunities and privileges as incorporated Villages now have or hereafter may have by law, as fully as if such Village had been specially mentioned in the Schedule or Schedules relating to Villages attached to the Municipal Acts of Upper Canada.

Inconsistent enactments repealed.

II. All Acts and parts of Acts inconsistent with this Act shall be and are hereby repealed.

## COUNTIES UNITED FOR MUNICIPAL PURPOSES.

### CAP. LXVIII.

AN ACT TO ENABLE COUNTIES UNITED FOR MUNICIPAL PURPOSES TO CARRY ON IMPROVEMENTS INDEPENDENTLY OF EACH OTHER.

[Assented to 10th June, 1857.]

Preamble.

**W**HEREAS it is necessary to afford greater facilities than at present exist for carrying on local improvements in Counties where two or more are united: Therefore Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

County united to another may raise funds separately for separate purposes.

I. From and after the passing of this Act, it shall and may be lawful for the County Councils of United Counties to take into consideration, make appropriations and raise funds, so as to enable either County separately to carry on such improvements as may be required by the inhabitants thereof.

Reeve, &c., of County interested only to vote.

II. Whenever any such measure shall be brought under the notice of the Council of any United Counties, none but the Reeves and Deputy Reeves of the County affected by the measure shall be permitted to vote;

Provido. Provided always, that the Warden in case of an equality of votes for and against the measure, shall have the

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20 Vict. DISPOSAL OF ROAD ALLOWANCES ACT (c.w.) Cap. 69, 1857.

right of giving the casting vote, whether he be a Reeve or Deputy Reeve of any portion of the County affected by the measure or not.

III. In all other respects, all the provisions of the Municipal Corporations Acts of Upper Canada, giving such privileges and making provision for the payment of the amounts appropriated, whether to be borrowed upon a loan or to be raised by direct taxation, shall be adhered to.

Municipal Corporations Acts to apply in other respects.

IV. The Treasurer of such United Counties shall pay over all sums so paid into his hands by the several Collectors without any deduction for per centage.

Moneys so raised to be paid without deduction.

V. The property to be assessed for the purposes by this Act contemplated, shall be the same as is assessed for any other County purpose, except that any sum to be raised for the purposes of one County only, or for the payment of any debt contracted for the purposes of one County only, shall be assessed and levied solely upon property in that County, and not upon that in the other or others united to it.

Only property in the County interested to be assessed.

DISPOSAL OF ROAD ALLOWANCES.

CAP. LXIX.

AN ACT TO PROVIDE FOR THE DISPOSAL OF ROAD ALLOWANCES IN THE RURAL MUNICIPALITIES OF UPPER CANADA.

[Assented to 10th June, 1857.]

WHEREAS it has become necessary to provide more fully for the stopping up and sale of original road allowances in Upper Canada: Therefore Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Preamble.

I. So much of the one hundred and eighty-seventh section of the Upper Canada Municipal Corporations Act of 1849, as amended by the Upper Canada Municipal Corporations Law Amendment Act of 1850, or of the thirty-second section of the Upper Canada Municipal Corporations Law Amendment Act of 1853, as prevents the Municipalities of Townships and the Municipal Councils of Counties in Upper Canada from passing By-laws for stopping up original allowances for roads in such Townships

Part of section 137 of 12 V. c. 51, and of section 32 of 16 V. c. 131, repealed.



ships or Counties, or from selling and conveying any original allowance for road, shall be and the same is hereby repealed.

Township Councils may make By-laws for sale, &c., of Road allowances.

II. It shall be lawful for the Municipality of each of the Townships of Upper Canada from time to time to make a By-law or By-laws for the stopping up and sale of any original allowance for road, or any part thereof, within such Township, and thereby to determine and declare the terms upon which such original allowance for road shall be sold and conveyed; Provided, for confirmation by County Council. provided always, that such By-law or By-laws, before they have any force, shall be confirmed by a By-law of the County Council of the County in which such Township is situate, at some ordinary session thereof, held not sooner than three months nor later than one year next after the passing thereof.

County Councils may make similar By-laws as to Roads under their control.

III. It shall be lawful for the Municipal Council, of each County or Union of Counties in Upper Canada, from time to time to make a By-law or By-laws for the stopping up or stopping up and sale of any original allowance for road or parts thereof within such County or Union of Counties, which is subject to the sole jurisdiction and control of the Municipal Council thereof, and not being on the limits of any Village, Town or City therein.

To whom the Road Allowance shall be first offered in certain cases; if compensation has been made for a new Road.

IV. In all cases where a Public Road has been opened or where a new road shall be opened in lieu of the original road allowance, and for which compensation shall have been or shall be paid, the Municipal Council of the Township or of the County shall in their respective jurisdictions, have power to sell such original road allowance to the party or parties next adjoining to whose land or lands the same shall have run or be run, and in case of his, her or their refusal to become the purchaser or purchasers thereof, at such price or prices as such Municipal Corporation shall think reasonable, then to any other person or persons whomsoever, but not for a less sum than the price it was offered to the party refusing to purchase it.

And if no compensation has been made for the new Road.

V. In all cases where a public road has been or where a new road shall be opened in lieu of an original road allowance, and for which no compensation has been or shall be paid, the Municipal Council of the Township or County in their respective jurisdictions shall have power and they are hereby authorized and required upon the report in writing of the Township or County Surveyor, or of a Deputy Provincial Land Surveyor, that such new road allowance or travelled road is sufficient for the purposes of

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of a public road or highway, to convey such original road allowance to the party or parties through whose land or lands the same shall have run or shall run, in lieu of such new road.

VI. When any such Road is, in the opinion of such Municipality, useless to the public, and lies between lands owned by different parties, such Municipality shall, subject to the conditions aforesaid, sell and convey a part thereof to each of such parties, as to such Municipality shall appear to be just and reasonable.

When the Road is useless to the public, the allowance may be sold.

VII. It shall not be lawful for any Municipality, whether County or Township, after the passing of this Act, to close up any public road or highway, whether such road or highway be an original road allowance, or a road which has been opened by the Quarter Sessions, County or Township Councils through any land, by which any person shall be excluded from ingress or egress to and from his farm or place of residence over the said road, but all such roads shall remain open for the use of the person who shall require the same.

Roads not to be closed so as to prevent access to any land.

VIII. No By-law for the stopping up, or stopping up and sale of any original allowance for Road shall be passed until one month's notice thereof shall have been given by written or printed notices posted in at least six public places in the vicinity of such road allowance, and published in at least one local newspaper for three successive weeks, and it shall be the duty of the Township or County Clerk, as the case may be, to give such notice on the application of the party applying therefor, on payment of the reasonable expenses attendant thereon.

By-law to be published before being passed.

## HOUSES OF PUBLIC ENTERTAINMENT.

CAP. LXX.

AN ACT TO AMEND THE LAW RELATIVE TO THE INSPECTORS OF HOUSES OF PUBLIC ENTERTAINMENT.

[Assented to 10th June, 1857.]

**W**HEREAS it is expedient to amend the Act thirteenth and fourteenth Victoria, chapter sixty-five, amending the law relative to Tavern Licenses in Upper Canada, in so far as it relates to the election of Inspectors

Preamble.

ors of Houses of Public Entertainment, by providing that hereafter such Inspectors shall be appointed by the Municipalities, instead of being elected by the people as heretofore : Therefore Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

I. After the present year one thousand eight hundred and fifty-seven, so much of the said Act as empowers the Municipal Electors to elect Inspectors of Houses of Public Entertainment in any Municipality in Upper Canada shall be repealed, and it shall be lawful for the Council of each such Municipality to appoint annually one or more fit and proper persons to be such Inspectors, who shall hold office during the year for which the said Council shall have been elected, and any vacancy occurring during the said year shall be filled as aforesaid by the said Council, for the remainder of the period such Council shall continue in office.

Inspectors to be appointed by the Municipal Councils after 1857.

II. It shall be lawful for the Municipalities in Upper Canada, by By-law, to fix and define the duties, powers and privileges of the Inspectors so appointed by them, the remuneration they shall receive, and the security to be given by them for the efficient discharge of the duties of their office ; such By-laws not being contrary to the laws of Upper Canada.

By-laws to be made for their government.

III. The person or persons to be appointed Inspectors shall possess the same property qualification as is now required for the Councillors of the Municipality which shall appoint the same.

Qualification of Inspectors.

IV. So much of the hereinabove cited Act as is inconsistent with this Act shall be, and the same is hereby repealed.

Inconsistent enactments repealed.

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# SAVINGS BANK AMENDMENT.

## CAP. XXIX.

AN ACT TO AMEND THE ACT RELATING TO SAVINGS BANKS.

[Assented to 16th May, 1856.]

**W**HEREAS under the provisions of the Act passed in the Session held in the fourth and fifth years of Her Majesty's Reign, intitled, *An Act to encourage the establishment of and regulate Savings Banks in this Province*, now in force, it is doubtful whether such institutions can legally acquire and hold landed property; And whereas, also, it is unlawful for any Director or Directors, Trustee or Trustees, or other persons having direction in the management of any Savings Bank established under the said Act, directly or indirectly to have any salary, allowance, profit or benefit whatever from the deposits made therein, or the produce thereof, beyond their actual expenditure for the purposes of such Institution; And whereas it is expedient to amend the said Act in these respects as regards the City and District Savings Bank at Montreal: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Preamble.

4 & 5 V. c. 32.

1. It shall and may be lawful for the City and District Savings Bank, now established in the said City of Montreal, under the provisions of the Act above mentioned, to acquire, hold, possess and enjoy any lands, tenements and hereditaments situate within the City of Montreal, provided the lands, tenements and hereditaments so to be acquired, be only such as shall be requisite for the transaction of its business; And all such real property so to be acquired as aforesaid, shall vest in the Directors or Trustees for the time being of the said Institution, in the same manner as is already provided in respect to personal property belonging to the same, and the provisions of the said Act applicable to such personal property shall extend to, govern and be applicable to all such real property to be acquired under the provisions of this Act, as aforesaid; and in case of its being deemed desirable for the interest of the institution to sell

City and District Savings Bank at Montreal may hold real property for its occupation, Subject to certain conditions.

May sell the same and acquire other property: and how.

or convey the whole or a part of such immoveable property so to be acquired as aforesaid, it shall be lawful for the Directors or Trustees of the said Institution for the time being, or the major part of them, (not being less than two thirds,) and they are hereby empowered to sell and to convey or assign the same to the purchaser or purchasers, assignee or assignees of the same, subject to such rules and regulations as may from time to time be made by the members of the said Institution, in regard to the same; which rules and regulations, before they shall have effect, shall be entered, transcribed and deposited in the manner prescribed for other rules and regulations of such Institutions, by the second section *Proviso.* of the Act aforesaid: Provided always, that no sale of the real estate of the Institution shall be made or shall be valid until the resolutions of the Directors to that effect shall have been submitted to and approved by the Governor in Council.

First Director  
may be paid for  
his services.

II. It shall be lawful for the Directors or Trustees of the said City and District Savings Bank to give and grant to the President or first Director or Trustee of that Institution, as a remuneration for his services, any sum or sums of money not exceeding four hundred pounds currency, per annum, out of the profits on the funds deposited in their hands as such Directors or Trustees; any thing in the said Act relative to Savings Banks to the contrary notwithstanding.

Public Act

III. This Act shall be a public Act.

(See *Savings Bank Act*, pages 277 to 284, in this work.)

## PATENTS FOR INVENTIONS—EXTENTION.

### CAP. XXXIII.

AN ACT TO EXTEND PATENTS FOR INVENTIONS GRANTED FOR ONE SECTION OF THE PROVINCE TO BOTH SECTIONS THEREOF, ON CERTAIN CONDITIONS.

[Assented to 10th June, 1857.]

Preamble.  
12 V. c. 24.

WHEREAS by the Act passed in 1849, in the twelfth year of Her Majesty's Reign,

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and intituled, *An Act to consolidate and amend the Laws of Patents for Inventions in this Province*, it is provided that Patents thereafter granted should extend to the whole Province, and by the Act passed in the Session held in 1851, in the fourteenth and fifteenth years of Her Majesty's 14, 15 V. c. 78. Reign, and intituled, *An Act to enable parties holding Patents for Inventions confined to one section of this Province, to obtain the extension of the same to the other section thereof, and for other purposes therein mentioned*, provision is made for such extention of Patents issued for either Upper or Lower Canada before the Union thereof, to both sections of this Province; but though it was equally expedient that provision should be made for the like extentions of Patents issued after the Union but before the passing of the said Act of 1849, and it appears to have been the intention of the Legislature to make such provision, yet from the wording of the said Act, it is at least doubtful whether such provision is thereby made; Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

1. Every Patent for an Invention issued after the Union of Upper and Lower Canada, but before the passing of the said Act of 1849, shall from and after the passing of this Act, and by virtue thereof, extend and apply to and throughout the whole Province of Canada, and shall be subject to all the provisos, conditions, reservations and restrictions mentioned and contained in the said Act of 1849, and the provisions thereof and of the said Act of 1851, applicable to Patents generally, shall apply to such Patents, and all matters incident thereto; and any such Patent shall, as regards that section of the Province for which it was not originally granted, convey to the holder of such Patent all the privileges conferred by the said Act of 1849, for and during the remainder of the term for which such Patent was originally granted, and shall be renewable for the whole Province for the period and under the conditions prescribed in the eleventh section of the said Act of 1849: Provided always, that every person or corporation in that section of the Province to which such Patent shall extend solely by the virtue of this Act, who has or shall have purchased, constructed or used within such section of the Province, prior to the passing of this Act, any machine, manufacture or composition or matter included in such Patent, shall be held to possess the right to use and vend to others to be used, the specific machine, manufacture or composition of matter so actually purchased, constructed or used by him before the passing of

Patents Issued  
between the  
Union of the Pro-  
vinces and the Act  
of 1849, extended  
to the whole  
Province.

Proviso: in favour  
of persons who  
have used the In-  
vention before the  
passing of this  
Act.

this Act, without liability to the Patentee or other person interested in the invention for which such Patent was granted, as regards such section of the Province.

(See pages 427 to 443 in this work.)

## JUDICIAL DISTRICTS' FEES.

### SCHEDULE B.

TARIFF OF FEES AND ALLOWANCES TO BE RECEIVED BY CLERKS AND BAILIFFS.

CLERK'S FEES.	Not exceeding £5.		Exceeding £5 and not £15.		Exceeding £15 and not exceeding £20.		Exceeding £20.	
	£	s. d.	£	s. d.	£	s. d.	£	s. d.
Entering every Account and issuing Summons.....	0	1 0	0	1 6	0	2 0	0	2 6
Copy of Summons, Particulars of Demand or Sett Off, each.....	0	0 6	0	0 9	0	1 0	0	1 3
Every Summons to Witnesses with any number of names .....	0	0 6	0	0 6	0	0 6	0	0 6
Entering Bailiff's returns to Summons to Defendant .....	0	0 3	0	0 3	0	0 3	0	0 3
Every copy of Subpoena when made by the Clerk .....	0	0 3	0	0 3	0	0 3	0	0 3
Entering Sett Off or other Defence requiring notice to Plaintiff .....	0	0 9	0	1 0	0	1 0	0	1 3
Adjournment of any cause .....	0	1 0	0	1 0	0	1 0	0	1 0
Entering every Judgment or order made at hearing .....	0	0 9	0	1 0	0	1 3	0	1 6
Taking confession of Judgment .....	0	0 9	0	0 9	0	0 9	0	0 9
Every Warrant, Attachment or Execution Drawing every Bond, including Affidavit of Justification .....	0	1 3	0	1 6	0	2 0	0	2 6
For every Affidavit taken, and drawing the same, if not over 3 folios, if over that number, 3d. per folio.....	0	3 9	0	3 9	0	3 9	0	3 9
Every search on behalf of a person not a party to a Suit, to be paid by the Applicant.....	0	1 0	0	1 0	0	1 0	0	1 0
Every search for a party to a Suit when the proceedings are over a year old.....	0	0 6	0	0 6	0	0 6	0	0 6
<b>BAILIFFS' FEES.</b>								
Service of Summons or other Process, except Subpoena, on each person.....	0	0 6	0	0 9	0	1 0	0	1 3
Service of each Subpoena .....	0	0 4	0	0 4	0	0 4	0	0 4
Taking Confession of Judgment .....	0	0 9	0	0 9	0	0 9	0	0 9
Enforcing every Warrant, Execution or Attachment against the body or the goods.....	0	1 6	0	2 0	0	3 0	0	4 0
Drawing every bond authorized to be taken by him .....	0	2 6	0	2 6	0	2 6	0	2 6
Every Schedule of property seized.....	0	1 3	0	1 3	0	1 3	0	1 3
For necessary notices of sale under execution .....	1s.	each						

60, 1857  
 her person  
 as granted,

22 Vict. **FRAUDS COMMITTED BY TRUSTEES, &c.** Cap. 2, 1858.

For necessary travel to serve Summons and other process, or to execute Warrant or Attachment, a sum in the discretion of the Stipendiary Magistrate, not exceeding 8d. per mile travel from Clerk's office.  
 Upon the sale of any property under any Execution, the sum of two and a half per cent. on the amount realized, and not to apply to any overplus on the Execution.

**SCHEDULE C.**

**ALLOWANCE TO WITNESSES.**

Attendance per day in Court ..... £0 3 9  
 Travelling expenses, a reasonable sum in the discretion of the Stipendiary Magistrate, not exceeding 1s. per mile, one way.

And where a witness attends in two or more causes, his expenses may be apportioned between or amongst such causes if the Stipendiary Magistrate shall think fit.

**FRAUDS BY TRUSTEES, &c.**

**CAP. II.**

**AN ACT TO MAKE BETTER PROVISION FOR THE PUNISHMENT OF  
 FRAUDS COMMITTED BY TRUSTEES, BANKERS AND OTHER PER-  
 SONS INTRUSTED WITH PROPERTY.**

[Assented to 30th June, 1858.]

**WHEREAS** it is expedient to make better provision for the punishment of frauds committed by trustees, bankers, and other persons intrusted with property: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Preamble.

I. If any person being a trustee of any property for the benefit, either wholly or partially, of some other person, or for any public or charitable purpose, shall with intent to defraud, convert or appropriate the same, or any part thereof, to or for his own use or purposes, or shall, with intent otherwise dispose of or destroy such property, or any part thereof, he shall be guilty of a misdemeanor.

Trustees fraudulently disposing of property, guilty of a misdemeanor.

II.

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Bankers, &c., fraudulently selling, &c., property intrusted to their care, guilty of misdemeanor.

Persons holding powers of Attorney fraudulently selling property, guilty of a misdemeanor.

Bailees fraudulently converting property to their own use, guilty of larceny.

Directors, &c., of any body corporate or public Company, fraudulently appropriating property,—

Or keeping fraudulent accounts,—

Or willfully destroying books, &c. ;—

II. If any person, being a banker, merchant, broker, attorney or agent, and being intrusted for safe custody with the property of any other person, shall, with intent to defraud, sell, negotiate, transfer, pledge, or in any manner convert or appropriate to or for his own use such property, or any part thereof, he shall be guilty of a misdemeanor.

III. If any person intrusted with any power of attorney for the sale or transfer of any property, shall fraudulently sell or transfer, or otherwise convert such property or any part thereof to his own use or benefit, he shall be guilty of a misdemeanor.

IV. If any person, being a bailee of any property, shall fraudulently take or convert the same to his own use, or the use of any person other than the owner thereof, although he shall not break bulk, or otherwise determine the bailment, he shall be guilty of larceny.

V. If any person, being a director, member, or public officer of any body corporate or public company, shall fraudulently take or apply, for his own use, any of the money or other property of such body corporate or public company, he shall be guilty of a misdemeanor.

VI. If any person, being a director, public officer, or manager of any body corporate or public company, shall as such receive or possess himself of any of the money or other property of such body corporate or public company, otherwise than in payment of a just debt or demand, and shall, with intent to defraud, omit to make or to cause or direct to be made, a full and true entry thereof, in the books and accounts of such body corporate or public company, he shall be guilty of a misdemeanor.

VII. If any director, manager, public officer, or member of any body corporate or public company shall, with the intent to defraud, destroy, alter, mutilate or falsify, any of the books, papers, writings or securities belonging to the body corporate or public company, of which he is a director or manager, public officer or member, or make, or concur in the making of any false entry, or any material omission in any book of account or other document, he shall be guilty of a misdemeanor.

VIII. If any director, manager, or public officer of any body corporate or public company shall make, circulate or publish, or concur in making, circulating or publishing, any written statement or account which he shall know to be false in any material particular, with intent to deceive or defraud any member, shareholder, or creditor of such body corporate or public company, or with intent to induce any person to become a shareholder or partner therein, or to intrust or advance any money or property to such body corporate or public company, or to enter into any security for the benefit thereof, he shall be guilty of a misdemeanor.

Or publishing fraudulent statements,—

Guilty of misdemeanor.

IX. If any person shall receive any chattel, money, or valuable security, which shall have been so fraudulently disposed of as to render the party disposing thereof guilty of a misdemeanor under any of the provisions of this Act, knowing the same to have been so fraudulently disposed of, he shall be guilty of a misdemeanor, and may be indicted and convicted thereof, whether the party guilty of the principal misdemeanor shall or shall not have been previously convicted, or shall or shall not be amenable to justice.

Persons receiving property fraudulently disposed of knowing it to have been so, guilty of a misdemeanor.

X. Every person found guilty of misdemeanor under this Act, shall be liable, at the discretion of the Court, to be imprisoned in the Provincial Penitentiary for any term not exceeding three years nor less than two years, or to suffer such other punishment, by imprisonment for any term less than two years, and with or without hard labour, or by fine, as the Court shall award.

Punishment for a misdemeanor under this Act.

XI. Nothing in this Act contained shall enable or entitle any person to refuse to make a full and complete discovery by answer to any Bill in Equity, or to answer any question or interrogatory in any civil proceeding in any Court of Law or Equity, or in any Court of Bankruptcy or insolvency, now in existence or hereafter to be established in this Province; but no answer to any such bill, question or interrogatory shall be admissible in evidence against such person in any proceeding under this Act.

No person exempt from answering questions in any Court, but his answer not admissible as evidence in prosecutions under this Act.

XII. Nothing in this Act contained, nor any proceeding, conviction or judgment to be had or taken thereon against any person under this Act shall prevent, lessen or impeach any remedy at law or in equity which any party aggrieved by any offence against this Act might have had, if this Act had not been passed;

No remedy at law or in equity to be affected by this Act.

Convictions not to be received in evidence in civil suits.

passed; but no conviction of any such offender shall be received in evidence in any action at law or suit in equity against him; and nothing in this Act contained shall affect or prejudice any agreement entered into or security given by any trustee, having for its object the restoration or repayment of any trust property misappropriated.

Sanction of Attorney-General requisite to certain prosecutions;

commenced General for Upper or for Lower Canada, as the case may be; or in case that office be vacant, of Her Majesty's Solicitor-General for Upper or for Lower Canada, as the case may be; Provided that when any civil proceeding shall have been taken against any person to whom the provisions of the said first section, but not of any other section of this Act, may apply, no person who shall have taken such civil proceedings shall commence any prosecution under this Act without the sanction of the Court or Judge before whom such civil proceeding shall have been had, or shall be pending.

XIII. No proceeding or prosecution for any offence included in the first section, but not included in any other section of this Act, shall be commenced without the sanction of Her Majesty's Attorney General for Upper or for Lower Canada, as the case may be; or in case that office be vacant, of Her Majesty's Solicitor-General for Upper or for Lower Canada, as the case may be; Provided that when any civil proceeding shall have been taken against any person to whom the provisions of the said first section, but not of any other section of this Act, may apply, no person who shall have taken such civil proceedings shall commence any prosecution under this Act without the sanction of the Court or Judge before whom such civil proceeding shall have been had, or shall be pending.

If offence amounts to larceny, of offender not to be acquitted of misdemeanor.

XIV. If upon the trial of any person under this Act it shall appear that the offence proved amounts to larceny, he shall not by reason thereof be entitled to be acquitted of a misdemeanor under this Act.

Misdemeanors not triable at sessions.

XV. No misdemeanor against this Act shall be prosecuted or tried at any Court of General or Quarter Sessions of the Peace.

Interpretation of certain terms.

Trustee.

XVI. The word "Trustee" shall in this Act mean a Trustee on some express trust created by some deed, will, commission, letters patent, appointment to office or instrument in writing, and shall also include the heir and personal representative of such Trustee, and also all executors and administrators, and all assignees in Bankruptcy and Insolvency, under any Act of this Province now or hereafter to be in force; and in Lower Canada the word "Trustee" shall also include any person who is, by the law of that section of the Province, an "Administrateur," and the word "Trust" whatever is by such law an "Administration."

Court of Law.

The expression "Court of Law," shall include any Court having civil jurisdiction in Lower Canada.

The word "Property" shall include every <sup>Property.</sup> description of real and personal property, goods, raw or other materials, money, debts and legacies, and all deeds and instruments relating to or evidencing the title or right to any property, or giving a right to recover or receive any money or goods; and such word "Property," shall also denote and include not only such real or personal property as may have been the original subject of a trust, but also any real or personal property into which the same may have been converted or exchanged, and the proceeds thereof respectively, and any thing acquired by such proceeds.

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## FOREIGN EXECUTORS, &c.

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### CAP. VI.

AN ACT TO ENABLE FOREIGN EXECUTORS, ADMINISTRATORS AND CORPORATIONS, TO SUE AND BE SUED IN LOWER CANADA.

[Assented to 30th June, 1858.]

**W**HEREAS doubts have arisen whether <sup>Preamble.</sup> Foreign Executors and Administrators, as well as Joint-Stock Companies and Corporations incorporated and erected as well by Acts of Foreign Legislatures or Governments as by the Legislature of Upper Canada before the re-union of Upper and Lower Canada, have the right to sue or are liable to be sued in Lower Canada, and it is fitting and proper such doubts should be removed, and that such Executors and Administrators and Corporations or Joint-Stock Companies should be entitled to sue and be liable to be sued in the same way as private individuals: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

1. All Executors of Wills, and all Administrators, or other legal representatives of the estate of any person dying in or out of Lower Canada, but seized of real or personal effects or rights of action there, and all other persons who either by the law of Upper Canada or by the Law of any Country or State whatever where the deceased may have died or have made his will, may be legally seized of the estate of the deceased or represent him in law, shall be recognized, and

Foreign Executors and Administrators, &c., enabled to sue and be sued in Lower Canada.

the legal capacity of any such Executor, Administrator or Representative, shall be of equal validity and effect, by and before all Judges and Justices, and by and before all Courts in Lower Canada, and to all other legal intents, as in the Country or place where he or they may reside or have been named and appointed, or where the will of the deceased may have been made, notwithstanding that such Executor or Administrator or Representative may reside out of Lower Canada.

Foreign Corporations, &c., enabled to sue and be sued in Lower Canada.

II. All Joint Stock or other Companies or bodies politic and corporate, who may have a legal capacity in the jurisdiction wherein they were or hereafter may be respectively erected or recognized, and all persons on whom by any properly constituted authority or law, whether of the heretofore Province of Upper Canada, or of the Imperial Parliament of Great Britain and Ireland, or of the United States of America, or of any of them, or of any other foreign state, colony or dominion, may have been or shall be conferred the right or power of suing or being sued, shall have the like capacity in Lower Canada, to bring and defend all actions, suits, complaints, bills and proceedings whatsoever,—and shall, by and before all Courts, Judges and Judicial authorities whatever in Lower Canada be held in law to be capable of suing and being sued, pleading and being impleaded, answering and being answered unto in the same name, manner and way as they could or might respectively be within the jurisdiction wherein such executors or administrators or person, body politic and corporate, Joint Stock Company or Association of persons, are or may be respectively created, erected or recognized.

Service of process on agents, &c., or at office of any such executor, company, &c., in L. C. to be good.

III. In whatever part or place in Lower Canada, any such executor or administrator or person, company or body politic or corporate, joint stock company or other body or association of persons recognized by any foreign law as aforesaid, may have an office for the transaction of or may carry on business, such executor or administrator, company, body politic or corporate, joint stock company or other body or association, shall be liable to and may be sued and impleaded in Lower Canada, and a service of any process at any such office, or any agent at the place or within the district or part of Lower Canada where such action may be brought, of any such Company, body politic or corporate, joint stock company or other body, shall be deemed and taken to be, by and before all Courts and Judges whatever, a good and valid service to compel the appearance of and make such executor or administrator

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22 Vict. PROOF OF INSTRUMENTS IN L. C., &c. Cap. 7, 1858.

administrator, body politic or corporate, joint stock company or association of persons, amenable to the laws of Lower Canada, and to give such Court Judge jurisdiction over such defendants.

PROOF OF INSTRUMENTS IN L. C., &c.

CAP. VII.

AN ACT TO FACILITATE THE PROOF IN LOWER CANADA OF CERTAIN INSTRUMENTS EXECUTED WITHOUT THAT SECTION OF THE PROVINCE.

[Assented to 30th June, 1858.]

WHEREAS it is expedient to facilitate the proof in Lower Canada of certain instruments executed beyond the limits of that section of the Province, the originals whereof are deposited with Notaries Public: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

I. A Notarial copy of any power of Attorney purporting to be executed out of Lower Canada, in the presence of one or more witnesses, and to be authenticated by or before any Mayor or other Magistrate, Judge of any Court of Record, British Consul or other Public Offices of the Country where it bears date, the original whereof may be deposited for any purpose with any Notary Public in Lower Canada, and which copy shall be certified in the ordinary form by the Notary having the custody of the original, shall be taken and received by and before all Courts and elsewhere in Lower Canada, as *prima facie* evidence of the original and of the due execution thereof; and such power of Attorney shall be held and taken to be authentic and duly proved in the manner aforesaid, unless the authenticity thereof be specially put in issue as hereinafter mentioned.

Notarial copies of powers of Attorney attested before foreign public Officers, and deposited with any Notary to be *prima facie* evidence of such Instruments.

II. It shall be competent for any interested party to deny the authenticity of the original of any such copy, by filing with the plea denying such authenticity, an affidavit to the effect that

How the authenticity of such Instruments may be questioned, and ascertained by commission, &c.

he has reason to doubt, and does not believe, that the same was executed or attested by the person or persons nor in the manner it purports to be, and by entering security, to the satisfaction of a Judge, for all costs attending the execution of any commission to be issued to prove such power of Attorney; it shall then be incumbent on the party wishing to use the copy, to prove the original thereof in due form of law, to which end the Notary having the custody of such original shall be bound, on the order of any Judge, to deposit the same in Court in the cause wherein it is put in issue, first detaching the same from any original minute whereto it may have been annexed, and taken at the expense of the party, a true and exact copy thereof collated in due form of law, which shall for the time being remain of record with him in lieu of the original; and it shall be the duty of all Judges and Courts to grant such order, on petition, any law or custom to the contrary notwithstanding; and the original may thereupon be annexed to any Commission to be issued for the proof thereof.

Costs of proof, how payable.

III. If such power of Attorney is duly proved, all costs incurred on the proceedings for proving it shall be taxed against and payable by the party denying the authenticity of the same, whatever may be the final judgment in the cause.

## RATE OF INTEREST.

### CAP. LXXXV.

AN ACT TO AMEND THE LAWS OF THIS PROVINCE REGULATING THE RATE OF INTEREST.

[Assented to 16th August, 1858.]

Preamble.

**W**HEREAS it is expedient to amend the laws relating to Interest of Money, and for that purpose to repeal the third section of the Act of the Parliament of this Province, passed in the sixteenth year of 16 V. c. 80. Her Majesty's Reign, and intituled, *An Act to modify the Usury Laws*, as to future contracts: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Section 3 of the

I. From and after the passing of this Act, the  
644 third



third section of the Act mentioned in the preamble of this Act shall be, and the same is hereby repealed, except only as to contracts made after force and before the passing of this Act, as to which it shall remain in force.

said Act repealed.  
Exception.

II. It shall be lawful for any person or persons, others than those excepted in this Act to stipulate for, allow and exact, on any contract or agreement whatsoever, any rate of interest or discount which may be agreed upon.

Private parties may agree for and recover any rate of interest.

III. It shall not be lawful for any bank incorporated by any Act of the Legislature of this Province, or of the late Provinces of Upper or Lower Canada respectively, or by Royal Charter, nor for any Bank established or to be established under the provisions of the Act of the Legislature of this Province, passed in the Session thereof, held in the thirteenth years of Her Majesty's Reign, intituled, *An Act to establish freedom of Banking in this Province, and for other purposes relative to Banks and Banking*, to stipulate for, take, reserve or exact a higher rate of discount or interest than seven per centum per annum: and any rate of interest not exceeding seven per centum per annum may be received and taken in advance by any such Bank; and it shall be lawful for any such Bank to allow and pay any rate of interest whatsoever upon moneys deposited in such Bank.

Banks not to take more than 7 per cent. per annum.

13 & 14 V. c. 21.

7 per cent. may be taken in advance by Banks.

IV. Notwithstanding any thing to the contrary in the Act passed in the Session held in the nineteenth and twentieth years of Her Majesty's Reign, chapter forty-eight, intituled, *An Act for enabling all the Chartered Banks in this Province to enjoy a certain privilege therein mentioned*, or in any other Act or Law, it shall not be lawful for any Bank or Banking Institution, carrying on business as such in this Province, in discounting at any of its places or seats of business, branches, agencies or offices of discount and deposit any note, bill or other negotiable security or paper payable at any other of its own places or seats of business, branches, agencies or offices of discount and deposit within this Province, to receive or retain in addition to the discount any amount exceeding the following rates per centum, according to the time it has to run, on the amount of such note, bill or other negotiable security or paper, to defray the expences attending the collection of such bill, note or other negotiable security or paper, that is to say, under thirty days, one-eighth of one per

Notwithstanding 10, 20 V. c. 48, Banks to take no more than certain rates of premium on paper discounted elsewhere than where it is payable.



cent., thirty days and over but under sixty days, one-fourth of one per cent., sixty days and over but under ninety days three-eighths of one per cent., ninety days and over, one-half of one per cent.

6 per cent. to be the rate where no other is agreed upon.

V. Six per cent. per annum shall continue to be the rate of interest in all cases where, by the agreement of the parties or by law, interest is payable, and no rate has been fixed by the parties or by the law.

Act not to apply to Corporations, &c.

VI. Nothing in this Act shall be construed to apply to any Corporation, or Company, or Association of persons, not being a Bank, heretofore authorised by law to lend or borrow money

## JOINT STOCK COMP. AMENDMENT.

### CAP. XC.

AN ACT TO AMEND THE ACT TO PROVIDE FOR THE FORMATION OF JOINT STOCK COMPANIES FOR MANUFACTURING, MINING, MECHANICAL OR CHEMICAL PURPOSES.

[Assented to 16th August, 1858.]

Preamble.

WHEREAS it is expedient to extend the provisions of the Act passed in the Session of Parliament held in the thirteenth and fourteenth years of Her Majesty's Reign. intituled, *An Act to provide for the formation of Incorporated Joint Stock Companies for Manufacturing, Mining, Mechanical or Chemical purposes*, and of the Act passed in the sixteenth year of Her Majesty's Reign, intituled, *An Act to amend the Act for the formation of Incorporated Joint Stock Companies for Manufacturing and other purposes*, with certain amendments, to the formation of Companies for the carrying on of Fisheries upon an extensive scale: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

The said Acts extended to certain Fishing Companies.

I. The said two Acts, and all and every the provisions thereof, save only in so far as is otherwise hereby provided, shall apply and have effect for all Companies which shall be formed as thereby provided

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for the carrying on of any fishery or fisheries within the limits of this Province or in the Gulf of the St. Lawrence, and for the building and equipping of any vessels required for such fishery or fisheries, and having a capital stock of not less than forty thousand dollars.

II. Notwithstanding any thing in the said Acts contained, the Stockholders of any such Fishery Company, whether they shall have paid in the amount of their respective shares of stock therein, or not, shall not be liable for any debts or contracts made by such Company, beyond the amount of their respective shares of stock therein, unless it be by reason of any infraction of the rules laid down by the proviso to the eleventh section of the first above recited of the said two Acts, or for any debt falling within the class of debts protected by the seventeenth section of the same Act, or as being officers or trustees of such Company.

Stockholders in a certain Company not liable beyond the amount of their shares except in certain cases only.

III. Every such Stockholder shall, however, be and remain liable for all debts and contracts of such Company to the full amount of his share or shares of stock therein, until the same shall have been fully paid in, notwithstanding any transfer which he may make thereof to any other party.

But liable for amount subscribed until paid up, notwithstanding transfer of Shares.

## REGISTRATION OF DEBENTURES.

### CAP. XCI.

AN ACT TO PROVIDE FOR THE REGISTRATION OF DEBENTURES ISSUED BY MUNICIPAL AND OTHER CORPORATE BODIES.

[Assented to 16th August, 1858]

**W**HEREAS it would tend greatly to the increased value of Debentures issued under the authority of By-laws of Municipal and other Corporate Bodies passed for the purpose of raising Moneys, and also to the better security of the holders of the same, that a system of Registration should be adopted, and a priority of lien in respect thereof given under certain conditions: Therefore, Her Majesty by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Preamble.

Certified copies of all By-laws heretofore passed by Municipal and Corporate Bodies, under which Debentures have been issued, to be transmitted to the proper Registrar within three months after the passing of this Act, together with a Return, as in Schedule A.

I. It shall be the duty of the Clerk or Secretary-Treasurer or person acting as such, of every Municipal or Provisional Municipal Corporation, and of the Clerk or Secretary, or person acting as such, of any other Corporate Body, within the period of three months after the passing of this Act, to transmit to the Registrar of the County or Registration Division in which such Municipal Corporation or other Corporate Body or its principal office is situated, a copy duly certified as hereinafter provided, of each and every By-law of such Municipal or Provisional Municipal Corporation, or other Corporate Body heretofore passed under or by authority of which respectively any sum or sums of money may have been raised by the issue of Debentures, together with a Return in the form specified in the Schedule hereunto annexed, marked A. shewing the title or objects of each such By-law, the number of Debentures issued and the amounts thereof respectively, the amounts raised under the said By-laws respectively, the amounts already heretofore paid or redeemed by the said Corporation on the account of the same, the balance still remaining outstanding and payable thereunder respectively, the dates at which the same respectively fall due, and the amount of yearly rate to pay off the same, and the assessed value of the real and personal estate of the Municipality (or Company), and to cause the said Return to be published three times in both languages in the *Canada Gazette*, and also three times in some newspaper published in such County, or if there be no newspaper, then in some newspaper in the County nearest thereto in which there is a newspaper.

Certified copies of all By-laws under which Debentures are intended to be issued to be transmitted to the proper Registrar within two weeks after the final passing of such By-laws, together with a Return, as in Schedule B.

II. From and after the passing of this Act it shall be the duty of the Clerk or Secretary-Treasurer or person acting as such of every Municipal, or Provisional Municipal Corporation, or of the Clerk or Secretary, or person acting as such of any other Corporate Body, within two weeks after the final passing of any By-law hereafter to be made and passed by such Corporation for the purpose of raising money by the issue of Debentures, and before the sale or contract for sale of any such Debentures issued or intended to be issued thereunder, to transmit to the Registrar of the County or Registration Division in which such Municipal Corporation or other Corporate Body, or its principal office is situated, a copy duly certified, as hereinafter provided, of each and every By-law hereafter to be made and passed as aforesaid by such Municipal or Provisional Municipal Corporation, or other Corporate Body, together with a Return in the form specified

Secretary- of every Corporation, person acting within the limits of this County or Municipal Corporation its principal office as such Municipal Corporation which raised by the form marked A. The number of such By-laws, respectively, the said Corporation shall respectively, and the assessed value (or value) thereof and also in the said Act it Secretary- of every Corporation, acting as such within two By-law by such money the sale intended of the said Corporation is situated of each of the above-mentioned Corporation, the form specified

specified in the Schedule B. hereunto annexed, shewing the title or objects of each such By-law, the amounts to be raised thereunder, the number of Debentures to be issued thereunder, the amounts thereof respectively, the dates of which the same respectively fall due, the assessed value of the real and personal estate belonging to such Corporation or Company,—the assessed value of the real and personal estate of the Municipality, and the amount of yearly rate in the pound to liquidate the same, and to cause said Return to be published three times in both languages in the *Canada Gazette*, and also three times in some newspaper published in such County, or if there be no newspaper, then in some newspaper in the County nearest thereto in which there is a newspaper.

III. The Registrar of the County or Registration Division in which such Municipal Corporation or other Corporate Body or its principal office is situated, shall receive and file in his office the several By-laws required to be transmitted to him as hereinbefore provided, and shall cause to be entered in a Book provided for that purpose, true and correct copies of the Returns hereinbefore required by the first and second sections of this Act.

Registrar to file such By-laws, and to keep Books with copies of the Returns required by sections 1, 2.

IV. The Registrar of each County or Registration Division, as aforesaid, shall provide a Book of Registration, wherein he shall, at the request of the original holder or holders, or any subsequent transferee or transferees thereof respectively, from time to time, cause to be entered and registered the name of such original holder or holders, or of such subsequent transferee or transferees, and such holder or last registered transferee in such Book of Registration shall be deemed *prima facie* the legal owner and possessor thereof.

If requested the Registrar may register the name of such holder of any debenture, and registration so be *prima facie* evidence.

V. All By-laws mentioned in the first section of this Act shall be certified and authenticated in the case of a Municipal or Provisional Municipal Corporation by the Seal of the Corporation, and by the Head, and by the Clerk or Secretary-Treasurer thereof respectively, being such at the time of the date of such certificate and authentication; and all By-laws mentioned in the second section of this Act shall be certified and authenticated by the Seal of the Corporation, and by the signature of the Head thereof, or of the person presiding at the Meeting at which the original By-law shall have been made and passed, and also by that of the Clerk or Secretary of such Corporation; and all By-laws of other Corporate Bodies shall be attested and authenticated by

Mode in which By-laws shall be certified.

the Seal of such Corporate Body and by that signature of the Head thereof.

By-laws, returns and Books of entry in Registry Office, to be open to inspection.

VI. The certified copies of all By-laws herein before referred to and transmitted as aforesaid, and also the Returns in the first and second sections mentioned, and the Book or Books of entry of such Returns and of Registration, shall be open to public inspection and examination, and access had thereto at all reasonable times and hours upon payment of certain fees as hereinafter provided.

Fees to be payable under this Act.

VII. The following fees shall be paid to Registrars under this Act :

For registration of each certified copy of By-laws, the sum of - - - - -	£0 10 0
For registration of any Returns as prescribed in Schedules A. and B., for each such Return, the sum of -	0 5 0
For registration of the name of holder or transferee, of any number of Debentures not exceeding five, the sum of - - - - -	0 1 3
Over five and not exceeding fifteen, the sum of - -	0 2 6
Over fifteen and not exceeding thirty, the sum of -	0 3 9
Upwards of thirty, the sum of - - - - -	0 5 0
For making search, inspecting each copy of By-law, and examining entries connected therewith- -	0 5 0

Meaning of term "final passing," as to By-laws to be submitted to the Governor.

VIII. In all such cases as require the submission of any By-law or By-laws to the Governor-General of this Province for his sanction, such sanction must first be obtained to bring the same within the meaning of the words "final passing thereof" in the second section of this Act.

Act not to extend to Railway Companies or Ecclesiastical Corporations, &c.

IX. This Act shall not extend to the By-laws, or Debentures thereunder, of any Railway Company or any Ecclesiastical Corporation heretofore incorporated or hereafter to be incorporated, or the Debentures issued by any Religious Denomination in its Corporate capacity, either in Upper or Lower Canada.

Negligence of duty, misdemeanor.

X. Any person neglecting to perform, within the proper period, any duty devolving upon him in virtue of the first or second sections of this Act, shall be guilty of a misdemeanor, and on conviction thereof shall be punishable by imprisonment for a period of not less than three nor more than twelve months.

Short Title of this Act

XI. This Act shall be cited as "The Debentures Registration Act."

(Amended by 22 Vict., cap. 23, 1859. See pages 665 & 666 in this work.)

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SCHEDULE A.

RETURN AS REQUIRED BY THE ACT INTITLED, AN ACT TO PROVIDE FOR THE REGISTRATION OF DEBENTURES ISSUED BY MUNICIPAL AND OTHER CORPORATE BODIES, OF DEBENTURES ISSUED BY THE (Corporate name.)

1 Title or objects of each By-law.	2 Number of Deben- tures issued and Amounts.		3 Amounts raised under each By-Law.	4 Amount paid or Re- deemed on account of said Debentures.	5 Balance still remain- ing outstanding and payable on said Debentures.	6 Dates at which De- bentures fall due, and Amount of yearly rate to pay off same.	7 Assessed value of Real and Personal Estate of the Muni- cipality (or Company.)	
	Number.	Amounts.					Dates of Deben- tures falling due.	Amount of yearly rate in the £

Dated at

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SCHEDULE

SCHEDULE B. (See Section II.)

RETURN AS REQUIRED BY THE ACT INTITLED, AN ACT TO PROVIDE FOR THE REGISTRATION OF DEBENTURES ISSUED BY MUNICIPAL AND OTHER BODIES, OF DEBENTURES ISSUED BY THE  
(Corporate name.)

1	2	3		4	5		6	7
Title or Objects of the By-law.	Amounts to be raised.	Number of Debentures and Amounts.		Dates when payable.	Assessed value of Real and Personal Estate belonging to such Corporation (or ship, County, City or Company.)		Assessed value of the real and personal Estate of the Municipality of (Town, Township, County, City or Village, as the case may be.)	Amount of yearly rate in the £ to li- quidate same.
		Number.	Amounts.		Real.	Personal.		

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 18 \_\_\_\_\_

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# PARTNERSHIP PROPERTY, C. E.

## CAP. IV.

AN ACT TO MAKE UNIFORM PROVISION FOR THE DISTRIBUTION OF THE SEPARATE PROPERTY OF THE MEMBERS OF PARTNERSHIPS IN LOWER CANADA.

[Assented to 26th March, 1859.]

**W**HEREAS it is expedient to make uniform provision for the manner in which, in Lower Canada, the joint property of a firm and the separate estate of each of the partners should be distributed among the creditors of such firm and the separate creditors of each partner: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

*Preamble.*

I. The rule of law to be followed in the distribution of the joint stock or property of a firm and of the separate estate of each of the partners taken in execution or otherwise brought, or hereafter to be taken in execution or otherwise brought into court for distribution, shall be the following, that is to say : That the net proceeds of the partnership estate be appropriated in the first instance to pay the creditors of the firm, and that the net proceeds of the separate estate of each partner be appropriated in the first instance to pay his separate creditors, and that if there be any balance of the separate estate of any partner after payment of his debts, such balance be added to the proceeds of the partnership estate, if necessary, for the payment of the creditors of the firm; and that if there be any balance of the partnership estate after payment of the debts of the firm, such balance be appropriated among the separate estates of the respective partners according to their rights and interest therein; and that the sum so appropriated to the separate estate of any partner be applied to the payment of his separate debts, if necessary.

Creditors of the firm to rank first on partnership estate, and separate creditors of each partner first on his separate estate.

II. This Act shall apply only to Lower Canada, and shall not affect any judgment of distribution rendered before its passing. Act limited to L.C.

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CON. MUNICIPAL LOAN FUND ACT,  
C. E. & W.

CAP. XV.

AN ACT FURTHER TO AMEND THE CONSOLIDATED MUNICIPAL LOAN FUND ACT.

[Assented to 4th May, 1859.]

Preamble.

WHEREAS by an Act passed during the present session of the Provincial Parliament, it has been declared that, certain sums shall be payable in final settlement of certain claims arising out of the abolition of the Seigneurial Tenure in Lower Canada; And whereas it is expedient that provision should be made to charge any such sums upon the unappropriated Consolidated Municipal Loan Fund of Lower Canada, and for this purpose to restrain the issue of Debentures by the Municipalities in Lower Canada, under the authority of the said Act; And whereas it is also expedient to amend the Acts relating to the Consolidated Municipal Loan Fund, that is to say, the Act passed in the sixteenth year of Her Majesty's Reign, chapter twenty-two, intituled, *An act to*  
16 Vic., ch. 22. *establish a Consolidated Municipal Loan Fund for Upper Canada*, as extended and amended by subsequent Acts, so as to afford relief to the Municipalities which have raised money by Debentures issued under the said Acts, and at the same time to secure the ultimate redemption of such debentures by the Municipalities respectively liable: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Except as herein mentioned no further loan to be raised on the said Consolidated Municipal Loan Fund, &c.

I. Except as hereinafter provided,—no loan shall, after the passing of this Act, be raised by any Municipality under the said Acts, nor shall any Debentures be thereafter issued under them to any Municipality: But whenever the principal of any Debentures issued upon the credit of the Consolidated Municipal Loan Fund either of Upper or Lower Canada becomes due, the Receiver-General, if he has then in his hands no sufficient funds appropriated to pay the same, may, with the consent

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sent of the Governor in Council, raise such funds by the issue of other Debentures upon the credit of the said Fund, redeemable at such time as he deems expedient: but nothing in this section shall prevent the effect of any enactment authorising the redemption of any such Debentures by the issue of Provincial stock or Debentures: Provided always, that nothing in this Act shall be construed to prevent the issue of Debentures under by-laws, which have received the sanction of the Governor in Council before the passing of this Act, but under which Debentures have not been issued to the parties entitled to receive the same;—And provided further, that it shall be lawful for the Governor in Council to authorise the issue, under the conditions of the said Acts, of Debentures on the credit of the Consolidated Municipal Loan Fund for Lower Canada, to an amount not exceeding in the whole four hundred thousand dollars, in addition to the amount issued before the passing of this Act, or agreed to be issued, under By-laws sanctioned as aforesaid before that time.

Proviso: as to By-laws already sanctioned.

Proviso: a further sum not over \$400,000 may be borrowed.

II. A sum equal to the amount of five cents in the dollar on the assessed yearly value, or a like per centage on the interest at six per cent. per annum on the assessed value, of all the assessable property in every Municipality which has raised money by Debentures issued under the Acts mentioned in the preamble, shall be paid by such municipality to the Receiver-General on or before the first day of December, in the present year, one thousand eight hundred and fifty-nine, and every year thereafter, unless and until the total amount in principal and interest payable by such Municipality to the Receiver-General under the said Acts by reason of such loan, shall have been paid and satisfied, or a smaller sum shall be sufficient to satisfy the same in any year, in which case such smaller sum only shall be so paid:

Sum or rate to be paid yearly to the Receiver-General by the Municipalities which have raised money under the said Fund.

III. Provided always, that the sum to be raised under this Section in any Municipality, shall never be less than the sum which the said percentage on the assessed value of the assessable property in such Municipality, according to the Assessment Rolls for the year 1858, in the same Municipality, would have produced;—but if in any year the assessed value of the assessed value of the assessable property in such Municipality shall be less than it was in the year 1858, the rate to be paid under this Section to the Receiver-General shall be so increased as to make the sum so payable equal to what it would have been

Proviso: such sum not to be less than the rate would have produced on the assessed value of 1858.

at the rate hereinbefore mentioned on the assessed value of the year 1853,—but the said rate shall always be payable on any increased assessed value over that of the year 1858.

Such sum to be a first charge on the Funds of the Municipality.

3. The said sum shall be the first charge upon all the funds of the Municipality, for whatever purpose or under whatever By-law they may have been raised, and no Treasurer, or other officer of the Municipality shall, after the first day of December in this present year one thousand eight hundred and fifty-nine, pay any sum whatever out of the funds of the Municipality in his hands, until the sum then payable by the Municipality to the Receiver-General under this Act, has been paid to him:

Penalty on any Municipal Officer contravening this section.

And if any such Treasurer or municipal officer pays any sum out of the funds of his municipality, contrary to the provision hereinbefore made, he shall be deemed guilty of a misdemeanor, and shall moreover be liable for every sum so paid, as for money received by him for the Crown:

To be instead of payments required by other Acts.

4. The sum aforesaid shall be instead of the payments which the Municipality would otherwise be bound to make to the Receiver-General under the said Acts: But if not paid as hereinbefore required, the Municipality shall be held to be in default, and shall be liable to be dealt with in the manner provided by the said Acts, with regard to Municipalities in default.

Municipality may pay a larger sum in any year.

5. Nothing in this Act shall prevent any Municipality from raising a higher rate than herein mentioned for the purpose of paying the sums payable by such Municipality to the Receiver-General, or from paying a larger sum to him in any year than that hereby required;

Interest to be charged.

6. The Receiver-General shall charge interest in his Accounts with Municipalities under the said Acts, at the rate of six per centum per annum, on all moneys paid by him for any Municipality whether as principal or interest, until the same are repaid.

Rate to be levied instead of that required by sect 6, of 16 Vict., ch. 22.

III. Instead of the special rate mentioned in the sixth section of the Act first cited in the preamble, there shall in the present year one thousand eight hundred and fifty-nine, be levied upon all the assessable property in every Municipality which has raised money by Debentures issued under the Acts aforesaid, a rate

of five cents in the dollar upon the assessed yearly value and a like per centage on the interest at the rate of six per cent. per annum of the assessed value of such property, and a like rate in each year thereafter until the total sums payable as principal or interest to the Receiver-General by reason of such Debentures, shall be paid off, or until a reduced rate shall be substituted by order in Council as hereinafter mentioned :

2. Such rate shall be levied by virtue of this How to be levied. Act, but shall be entered on the Collector's Rolls and collected and paid to the Treasurer of the Municipality in the same manner as ordinary rates imposed by municipal By-laws, and whether any other rate is or is not imposed in the Municipality in the same year.

3. The proceeds of such rate shall be applied Application of proceeds. by the Treasurer exclusively towards the payment of the sum payable by the Municipality to the Receiver-General in each year, if such sum be not then already paid, but if it be then already paid or there be any surplus of the said rate after paying it, the rate or surplus may be applied to the other purposes of the Municipality, in like manner as the proceeds of other rates.

4. Any Treasurer, Collector or other municipal officer or functionary, or any member of the Municipal Council, wilfully neglecting or refusing to perform or concur in performing any official act requisite for the collection of the said rate, or misapplying or being a party to the misapplication of any portion of the proceeds thereof, shall be guilty of a misdemeanor, and such Treasurer, Collector, or other Municipal Officer, member or functionary and his sureties shall moreover be personally liable for any sum which, by reason of such neglect, misconduct, refusal or misapplication, shall not be paid to the Receiver-General at the time required by this Act, as for moneys received by such Member, Treasurer, Collector or other municipal officer or functionary for the Crown. Penalty on Municipal Officers not complying with this Act.

IV. Whenever it appears to the Governor in Council, upon the Report of the Receiver-General, that a lower rate in the dollar than the rate aforesaid in any Municipality will be thereafter sufficient to pay the interest and contribution to the Sinking Fund payable by such Municipality in each year, under the Acts aforesaid, Governor in Council may allow a lower rate, whenever it shall be found sufficient. such

such lower rate may be substituted by order in Council for the rate aforesaid, for all the purposes of this Act.

Seigniorial Amendment Act of 1859, cited.

V. Whereas by the Act passed during the present session, intituled, "The Seigniorial amendment Act of 1859," it is provided,—that a sum of money bearing the same proportion to that which under the provisions of the said Act will be payable yearly to the Seigniors in Lower Canada, as the population of the Townships of Lower Canada shall, by the Census of one thousand eight hundred and sixty-one, be found to bear to that of the Seigniories,—shall be payable yearly, out of the Provincial Funds, to the credit of the Lower Canada Municipal Loan Fund, but for the benefit of the Townships only:—And whereas it is necessary to provide for the application of the said sum to the purposes contemplated by the said Act, therefore,—

How the sum given to the L. C. Townships shall be divided.

1. The said sum shall be divided among the several Townships in Lower Canada and the Town of Sherbrooke, in provision to their respective population as shewn by the said Census of one thousand eight hundred and sixty-one; and in the meantime advances may be made yearly to each of them, according to such approximate estimate as the Governor in Council, according to the best information obtainable, may sanction, subject to adjustment in account so soon as such proportion shall be established.

Capital may be paid at 75 per cent.

2. It shall be lawful for the Governor in Council to direct the Receiver-General to pay the Capital of the yearly sum coming to any such Townships or to the said Town, at the rate of seventy-five per cent. of such Capital, in discharge of the whole.

County Councils may appropriate such sums by By-law.

3. It shall be lawful for the County Council of any County in Lower Canada including within its limits any Township or Townships, and for the Town Council of the said Town of Sherbrooke, to pass By-laws with the approval of the Governor in Council for appropriating the said yearly sum or capital or any part of either, for any public improvement or improvements within the County or Town:—Provided that in Counties including a Seigniori or Seigniories, the County Councillors representing Municipalities composed of Townships or parts of Townships, shall alone be entitled to vote on any By-law for such appropriation, and such Councillors or the majority of them shall, as regards such by-law, form a

Proviso: who may vote on such By-laws.

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quorum of the Council, whatever be their number; And provided also, that if such appropriation be not made by the Council of any such County within twelve months from the passing of this Act, the several Local Councils in such County, with the like approval, may pass By-laws for appropriating to the like use their share of such yearly sum or capital; and payment of such yearly sum or capital shall be made for the purposes of such appropriation only.

Proviso: If the County Council do not make the appropriation within a certain time.

4. Any Municipality having the powers as well of a County Council as of a Local Council, shall be held to be a County Council within the meaning of this Act.

As to certain Municipalities.

VI. So long as any sum of money is payable to the Receiver-General by any Municipality under the Acts aforesaid, he may always retain in his hands any sum of money which would otherwise be payable by him to such Municipality, crediting the same to it, in his accounts with it under the said Acts.

Receiver-General may retain money due to the Province.

VII. In this Act the word "Treasurer" includes every Secretary-Treasurer, Chamberlain, or other Municipal officer or person entrusted with the custody of the funds of any Municipality, the expression, "Assessment Roll" includes Valuation Rolls,—and the Roll which is to serve for any year is the Roll for that year whatsoever be the year in which it was made,—the expression "Collector's Roll" includes any Roll or document shewing the amount to be collected from each rate-payer,—the word "Collector" includes the Secretary-Treasurer in places where that officer collects the Municipal Taxes:—and the word "Municipality" includes incorporated Cities and Towns.

Interpretation of certain words used in this Act.

VIII. Nothing in this Act shall be interpreted as legalizing any By-law or proceedings had under the Acts hereby amended, nor as legalizing the issue of any Debentures on the credit of the Consolidated Municipal Loan Fund in consequence of such By-laws or proceedings.—Canada East & West.

Act not to legalize any Debentures, &c., not otherwise valid.

*See Acts on pages 579 to 594 in this work.*

BANKS, &c., MAY TAKE BILLS OF LADING.  
&c., AS SECURITY.

CAP. XX.

AN ACT GRANTING ADDITIONAL FACILITIES IN COMMERCIAL  
TRANSACTIONS.

[Assented to 4th May, 1859.]

Preamble. **F**OR the purpose of affording additional facilities in Commercial transactions, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

Banks may take bills of lading, wharfinger receipts, &c., as collateral security for bills, &c., discounted.

I. Notwithstanding any thing to the contrary in the Charter or Act of incorporation of any Bank in this Province, any bill of lading, any specification of timber, or any receipt given by a warehouseman, miller, wharfinger, master of a vessel, or carrier, for cereal grains, goods, wares or merchandize, stored or deposited, or to be stored or deposited in any warehouse, mill-cove, or other place in this Province, or shipped in any vessel, or delivered to any carrier for carriage from any place whatever to any part of this Province, or through the same, or on the waters bordering thereon, or from the same to any other place whatever, and whether such cereal grains are to be delivered upon such receipt in species or converted into flour, may, by indorsement thereon by the owner of, or person entitled to receive such cereal grains, goods, wares or merchandize, or his attorney or agent, be transferred to any incorporated or chartered Bank in this Province, or to any person for such Bank, or to any private person or persons, as collateral security for the due payment of any bill of exchange or note discounted by such Bank in the regular course of its Banking business, or any debt due to such private person or persons, and being so indorsed shall vest in such Bank or private person from the date of such indorsement, all the right and title of the indorser to or in such cereal grains, goods, wares, or merchandize, subject to the right of the indorser to have the same re-transferred to him, if such bill, note or debt be paid when due ; And in the event of the non-payment of such bill or note or debt when due, such Bank or private person may sell the said cereal grains, goods, wares

And may sell the goods if such bills are not duly paid, returning surplus, &c.



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22 Vict. BANKS, &c., MAY TAKE BILLS OF LADING. Cap. 20, 1859.

or merchandize, and retain the proceeds, or so much thereof as will be equal to the amount due to the Bank or private person upon such bill, or note, or debt, with any interest or costs, returning the overplus, if any, to such indorser; Provided always, that no such cereal grains, goods, wares or merchandize, shall be held in pledge by such bank or private person for any period exceeding six calendar months; and provided also, that no transfer of any such bill of lading, specification of timber or receipt, shall be made under this Act to secure the payment of any bill, note or debt, unless such bill, note or debt is negotiated or contracted at the same time with the indorsement of such bill of lading, specification of timber or receipt; and provided further, that no sale of any cereal grains, goods, wares, or merchandize, shall take place under this Act until or unless ten days' notice of the time and place of such sale shall have been given by registered letter transmitted through the Post Office, to the owner of such cereal grains, goods, wares or merchandize, prior to the sale thereof.

Proviso: goods not to be held beyond a certain time.

At what time any such security must be transferred.

Goods not to be sold without notice to owner.

II. The Act of the Parliament of this Province passed in the twelfth year of the reign of Her Majesty, intituled, *An Act for the punishment of Warehousemen and others giving false receipts for merchandize, and of persons receiving advances upon goods, and afterwards fraudulently disposing of the same*, shall be applicable and shall be applied to all false bills of lading, receipts or documents in the first section of this Act mentioned, and any person knowingly giving, accepting, transmitting and using the same, shall be subject to all the pains and penalties imposed by that Act in respect of the receipts therein specified.

Act 12 V., c. 12, to apply to cases under this Act.

III. The provisions of this Act shall extend to all Banks which may be chartered during the present session, notwithstanding any thing to the contrary in any Act incorporating the same.

Act to apply to Banks Chartered this Session.



## WEIGHTS AND MEASURES.

## CAP. XXI.

AN ACT TO AMEND THE LAWS OF THIS PROVINCE RELATING TO WEIGHTS AND MEASURES.

[Assented to 4th of May, 1859.]

Preamble.

16 Vict., ch. 193.

**W**HEREAS an Act was passed in the sixteenth year of Her Majesty's Reign, chaptered one hundred and ninety-three, establishing a Standard Weight for grain and pulse; And whereas it is expedient to establish a Standard Weight in this Province for roots, seed, and some kinds of dried fruit: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Standard weights of certain articles.

I. From and after the passing of this Act, the following weights shall be, and the same are hereby declared to be the standard weights which in all cases shall be allowed to be equal to Winchester Bushel, namely:

Potatoes, turnips, carrots, parsnips, beans and onions...	60 lbs.
Flax seed.....	50 "
Hemp seed.....	44 "
Blue grass seed.....	14 "
Castor beans.....	40 "
Salt.....	56 "
Dried Apples.....	22 "
Dried Peaches.....	33 "
Malt.....	36 "

In future contracts weight to be understood instead of measure.

II. In Upper Canada upon any sale and delivery of any of the articles in this Act mentioned and in every contract which shall be made after the passing of this Act, for the sale and delivery of any of the said articles, the bushel shall be taken and intended to mean the weight of a bushel as regulated by this Act, and not a bushel in measure, or according to a greater or less weight; and in Lower Canada upon any sale or delivery of the said articles, the *minot* shall be taken and intended to be the weight of a bushel as regulated by this Act, and not a *minot* or bushel in measure, or according to any greater or lesser weight,

weight, unless the contrary shall appear to have been agreed upon by the parties.

III. And whereas with a view to facilitate calculation, it is expedient to alter the present standard of the ton weight and hundred weight; therefore, so much of the Act of Upper Canada, passed in the fourth year of the Reign of His late Majesty, King George the Fourth, as provides that the weights and measures used in Upper Canada, shall be in accordance with the standard of Her Majesty's Exchequer in England, in so far as it relates to the standard weights of hundred weight and ton, and their parts, multiples and proportions respectively, and so much of any Act or law in force in Lower Canada as regulates or affects the standard of the hundred weight and the ton, shall be and the same are hereby repealed.

Former provisions as to the cwt. and ton repealed.

IV. From and after the passing of this Act, the hundred weight for weighing all goods, wares and other commodities whatsoever, sold by the hundred weight or ton weight in this Province, shall contain and consist of one hundred pounds avoirdupois, and not of one hundred and twelve pounds as heretofore, and the ton weight used for the said purposes shall contain and consist of twenty hundred weight, as hereinabove established, or of two thousand pounds avoirdupois, and not of two thousand two hundred and forty pounds as heretofore; and the said hundred weight and ton weight as hereby established, with their parts, multiples and proportions, shall be held to be, from and after the period above mentioned, the standard weight in this Province, for the weighing of all goods, wares and commodities above mentioned; and in all cases in which a duty or toll is imposed by law upon or by the hundred weight or ton, such duty or toll shall be chargeable on the hundred weight or ton, as fixed and established by this Act.

Hundred weight to be 100 lbs. avoirdupois.  
Ton weight to be 2,000 lbs.

Act to apply to tolls, duties, &c.

V. All and every the laws now in force in Upper and Lower Canada respectively relating to the examination and adjustment of weights and measures in the said sections of the Province, shall be extended to and apply to the standards of the ton weight, and hundred weight hereby established, and to the several parts and proportions thereof, the said standard weights hereby established being, as regards such inspection and adjustment and the duties of the inspectors of weights and measures and others under the said Acts, and the penalties to be incurred

Laws in force as to weights and measures to apply to those hereby established.

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22 Vict. JOINT STOCK COMPANIES—AMENDMENT. Cap. 22, 1859.

infraction thereof, in all respects substituted for the standard hundred weight and ton heretofore in use.

Act not to affect existing contracts.

VI. No contract made before the passing of this Act shall be affected or avoided by any thing herein contained.

16 Vict. of Grain and Pulse, see Index in this Work.

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JOINT STOCK COMPANY---AMENDMENT.

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CAP. XXII.

AN ACT TO AMEND THE ACT RESPECTING JOINT STOCK TRADING COMPANIES.

[Assented to 4th May, 1859.]

Preamble.

WHEREAS it is expedient to authorize the formation of Joint Stock Companies for other purposes than those now mentioned in the several Acts in that behalf: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Act 13, 14 V. c. 28, extended to Companies formed for certain purposes.

I. The Act of the thirteenth and fourteenth Victoria, chapter twenty-eight, section one, is hereby amended as follows: After the words "any kind of manufacturing, ship building, mining, mechanical or chemical business," in the said section, the words "or for the erection of any building or buildings to be used in whole or in part for a Mechanics' Institute, for a public Reading or Lecture Room, for Agricultural or Horticultural Fairs or Exhibitions, or for Educational, Literary, or Religious purposes, or for a public Hotel, Baths and Bath Houses," shall be added.

See pages 445 to 454 in this work.

# REGISTRATION OF DEBENTURES—AMENDT.

## CAP. XXIII.

AN ACT TO AMEND THE ACT "TO PROVIDE FOR THE REGISTRATION OF DEBENTURES ISSUED BY MUNICIPAL AND OTHER CORPORATE BODIES."

[Assented to 4th May, 1859.]

**W**HEREAS several Municipalities in Upper Canada have by their petitions prayed that the Act passed in the twenty-second year of Her Majesty's Reign, intituled, *An Act to provide for the Registration of Debentures issued by Municipal and other Corporate Bodies*, may be amended in so far as relates to the publication thereby required; And whereas, in order to lessen the expenses connected therewith, it is desirable that such amendments should be made: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Preamble.

22 V. c. 91.

I. So much of the first and second sections of the above recited Act as declares it to be the duty of the Clerk or Secretary-Treasurer, or person acting as such, of every Municipal or Provisional Municipal Corporation, and of the Clerk or Secretary, or person acting as such, of any other Corporate Body, to cause the Returns therein specified to be published in the *Canada Gazette*, and also in some newspaper published in such County, or if there be no newspaper, then in some newspaper in the County nearest thereto in which there is a newspaper, shall be and the same are hereby repealed.

Part of sects. 1 and 2 requiring publication in newspapers, repealed.

II. In lieu of such publication, it shall be the duty of the Clerk or Secretary-Treasurer, or person acting as such, of every Municipal or Provisional Municipal Corporation, and of the Clerk or Secretary, or person acting as such, of any other Corporate Body (excepting such as are in and by said Act excepted), on or before the tenth day of January in each year, to transmit to the Auditor a Return made up to the thirty-first day of December then last past, in the form specified in the Schedule hereunto annexed marked C. shewing the name of the Municipal or Provisional Municipal Corporation, or other Corporate Body,—the amount of its debt,

Return to be made to Auditor instead.

if

if any, distinguishing the amount of debt incurred under the Municipal Loan Fund Acts, if any, from the remainder of its debt,—the assessed value of the real and personal estate belonging to such Corporation or Company, or the assessed value of the real and personal estate of the Municipality, or both, as the case may be,—the total rates, if any, per pound, assessed on such last mentioned property for all purposes, and the amount of interest due by the Corporation or Company, or by the Municipality.

Auditor to compile tables from such Returns and lay them before Parliament.

III. The Auditor shall annually compile from the Returns so transmitted a statement in tabular form, shewing the names of the several Corporations in one column, and the contents of their respective returns against their respective names in other columns corresponding to those in the said Schedule; and he shall cause copies thereof to be laid before each branch of the Legislature within the first fifteen days of the Session next after the completion of the same, or if Parliament be sitting when the same is completed, as soon as may be after such completion.

Time for transmitting By-laws to Registrars, extended.

IV. The time limited by the first section of of the said Act, for causing copies of By-laws and Returns relating to By-laws, passed before the date of the said Act to be transmitted to Registrars of Counties and Registration Divisions, is hereby extended to six months, after the passing of this Act.

Penalty on Officers of Corporations neglecting their duties under the said Act and this Act.

V. Any Clerk, Secretary, or Secretary-Treasurer as aforesaid, of any Municipality or Corporate Body as aforesaid, neglecting to perform, within the proper period, any duty devolving upon him in virtue of this Act, or the said Act as amended by this Act, shall be subject to a fine of fifty pounds, or in default of payment thereof, to imprisonment until such fine is paid, but for a period not exceeding twelve months, to be prosecuted for in the name of the Attorney-General, in any Court having competent jurisdiction.

Punishment under former Act repealed.

VI. So much of the Act first above mentioned as provides any punishment, is repealed.

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SCHEDULE C. (See Section II.)

RETURN AS REQUIRED BY THE ACT INTITULED, (*here insert Title of this Act*) OF DEBENTURES ISSUED BY (*here insert Title of Corporation.*)

LIABILITIES.		Assessed value of the Real and Personal Estate belonging to the Body Corporate.		Assessed value of the real and personal Estate of the Municipality.		Total rates assessed for all purposes.	Interest due by the Corporation (or Company, or Municipality).
		Real.	Personal.	Real.	Personal.		
Under Municipal Loan Fund Acts.	All other Liabilities.						
	Total Liabilities.						

## FORGERY LAWS—AMENDMENT.

### CAP. XXIV.

AN ACT FURTHER TO AMEND THE LAWS RELATING TO THE CRIME OF FORGERY.

[Assented to 4th May, 1859.]

**W**HEREAS it is expedient further to amend Preamble. the laws relating to the crime of forgery: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Forging or counterfeiting marks, labels on goods, how punishable.

I. Every person who shall knowingly and wilfully, and with intent to deceive and defraud, forge or counterfeit, or cause or procure to be forged or counterfeited any private mark, token, stamp or label of any manufacturer, mechanic or other person being a resident of this Province, upon or with respect to any goods, wares or merchandize whatsoever, shall be guilty of felony, and shall be punished by imprisonment in the Common Gaol for a term at the discretion of the Court, but less than two years.

Vending goods, &c., with forged marks or labels to be a misdemeanor, and how punishable?

II. Every person who shall vend any goods, wares or merchandize, having thereon any forged or counterfeited private mark, token, stamp or label, purporting to be the private mark, token, stamp, or label of any other person being a resident of this Province, knowing the same at the time of the purchase thereof by him to be forged or counterfeited, shall be guilty of a misdemeanor, and shall be punished by imprisonment in the Common Gaol for a term not exceeding six months, or by a fine of not more than one hundred dollars, or by both, in the discretion of the Court.

## FALSE PRETENCES.—AMENDMENT.

### CAP. XXV.

AN ACT TO AMEND THE LAW OF FALSE PRETENCES.

[Assented to 4th May, 1859.]

Preamble. **W**HEREAS it is expedient to amend the law relating to false pretences: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly, of Canada, enacts as follows:

I. If any person by any false pretence obtains the signature of any other person to any bill of exchange, promissory note, or any valuable security, with intent to cheat or defraud, every such offender shall be guilty of a misdemeanor, and shall be liable to fine or imprisonment, or both at the discretion of the Court; such imprisonment to be for a period less than two years.

Obtaining signature to any bill, &c., by false pretences to be a misdemeanor.

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## BILLS OF EXCHANGE.

### CAP. XXXII.

AN ACT TO REPEAL CERTAIN PROVISIONS OF LAW RELATING TO THE RECOVERY OF BILLS OF EXCHANGE AND PROMISSORY NOTES, IN UPPER CANADA.

[Assented to 4th May, 1859.]

WHEREAS it is desirable to repeal those clauses of the Common Law Procedure Act, 1857, of which the operation is suspended by the Act twenty-second Victoria, chapter ten: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

I. The fourth, fifth, sixth, seventh, eighth and ninth clauses of the Common Law Procedure Act, 1857, and also the words: "And with respect to Bills of Exchange and Promissory Notes, Be it enacted as follows," preceding the said fourth clause, are hereby repealed.

Preamble.  
Sects. 4, 5, 6, 7, 8, and 9, of 20th V., c. 57, repealed.

II. The Act passed in the twenty-second year of Her Majesty's Reign, chapter ten, extending to the first day of January next the time fixed in the said fourth clause for the operation of the said clauses, is hereby repealed.

Act 22 V., c. 10, repealed.

## SEPARATE RIGHTS OF PROPERTY OF MARRIED WOMEN.

### CAP. XXXIV.

AN ACT TO SECURE TO MARRIED WOMEN CERTAIN SEPARATE RIGHTS OF PROPERTY.

[Assented to 4th May, 1859.]

WHEREAS the law of Upper Canada relating to the property of Married Women is frequently productive of great injustice, and it is highly desirable that

Preamble.

amendments



amendments should be made therein for the better protection of their rights: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

A woman married after this Act may hold her property free from the debts or control of her husband.

I. Every woman who shall marry after the passing of this Act without any marriage contract or settlement, shall and may, notwithstanding her coverture, have, hold and enjoy all her real and personal property, whether belonging to her before marriage, or acquired by her by inheritance, devise, bequest or gift, or as next of kin to an intestate or in any other way after marriage, free from the debts and obligations of her husband and from his control or disposition without her consent, in as full and ample a manner as if she continued sole and unmarried, any law, usage or custom to the contrary notwithstanding; provided this clause shall not extend to any property received by a married woman from her husband during coverture.

A woman already married may hold property not yet reduced to possession of her husband.

II. Every woman already married without any marriage contract or settlement, shall and may, from and after the passing of this Act, notwithstanding her coverture, have, hold and enjoy all her real estate not yet taken possession of by the husband, by himself or his tenants, and all her personal property not already reduced into the possession of her husband, whether belonging to her before marriage or acquired by her after marriage, in any way free from his debts and obligations contracted after the passing of this Act, and from his control or disposition without her consent, in as full and ample a manner as if she were sole and unmarried; any law, usage or custom to the contrary notwithstanding.

Proviso: Act not to prevent seizure in execution in certain cases.

III. Provided always, that nothing herein contained shall be construed to protect the property of a married woman from seizure and sale on any execution against her husband for her torts; and in such case, execution shall first be levied on her separate property.

Proviso: not to affect tenancy by curtesy.

IV. Provided further, that no conveyance or other act of a wife in respect of her real estate shall deprive her husband of any estate he may become entitled to as tenant by the curtesy.

Proviso: order of protection required as to earnings.

V. Provided further that no married woman shall be entitled to her earnings during coverture without

protection with the Assembly

after the contract ending her real and legal rights to her property, devise, or in any other obligations without her consent, or continued in the contrary shall not be valid from her

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without an order of protection under the provisions herein-after contained.

VI. Any married woman having a decree for alimony against her husband, or any married woman who lives apart from her husband, having been obliged to leave him for cruelty or other cause which by law justifies her leaving him and renders him liable for her support, or any married woman whose husband is a lunatic, with or without lucid intervals, or any married woman whose husband is undergoing sentence of imprisonment in the Provincial Penitentiary, or in any gaol for a criminal offence, or any married woman whose husband from habitual drunkenness, profligacy or other cause, neglects or refuses to provide for her support, and that of his family, or any married woman whose husband has never been in this Province, or any married woman who is deserted or abandoned by her husband, may obtain an order of protection entitling her, notwithstanding her coverture, to have and enjoy all her earnings and those of her minor children, and any acquisitions therefrom, free from the debts and obligations of her husband and from his control or dispositions, and without his consent, in as full and ample a manner as if she continued sole and unmarried, any law, usage or custom to the contrary notwithstanding.

In what cases a married woman may obtain an order of protection for her earnings.

Purport and effect of such order

VII. The wife or husband, or any of the husband's creditors may, at any time, on notice to the married woman, apply for the discharge of the order of protection: and if an order for such discharge is made, the same may be filed like the original order.

How and by whom an order discharging protection may be obtained.

VIII. Either order may issue in duplicate, and when the married woman resides in a City or Town where there is a Recorder or Police Magistrate, the order for protection or any order discharging the same shall be made by the Recorder or Police Magistrate, and shall be registered in the Registry Office of the County.

Either order may be in duplicate.

By whom to be made in certain cities and towns.

Registration.

IX. When the married woman does not reside in such City or Town where there is a Recorder or Police Magistrate, the order shall be made by the Judge or one of the Judges, or the acting or Deputy Judge of the Division Courts, or a Division Court of the County in which the married woman resides, and instead of being registered, shall be filed for public inspection with the Clerk of the Division Court

By whom made when not in such city or town.

Court of the division within which the married woman resides.

Hearing may be public or private.

X. The hearing of an application for an order of protection, or for an order discharging the same, may be public or private, at the discretion of the Judge, Recorder or Police Magistrate.

Order not to have effect until registered.

XI. The order of protection shall have no effect until it is registered or filed, and the Registrar or Clerk shall immediately on receiving the order, endorse thereon the day of registering or filing the same: and a certificate of the filing and date, signed by the Registrar or Clerk for the time being, shall be *primâ facie* evidence of such filing and date; and a copy of the order which is registered or filed, certified under the hand of the Registrar or Clerk to be a true copy thereof, shall be sufficient *primâ facie* evidence of the order, without proof of the signature of the Registrar or Clerk, and without further proof of the order itself, or of the making or validity thereof.

From what time the order discharging protection shall take effect.

XII. The order for discharging an order of protection shall not in any case be retroactive, but shall take effect from the time it is made, and shall protect the earnings of the married woman and her children until an order is made discharging such order of protection, and the married woman shall continue to hold and enjoy to her separate use whatever, during the interval between the filing of the order of protection and the making of the order discharging the same, she may have acquired by the earnings of herself and her minor children.

Estate to which a husband is entitled in the property of his wife, not subject to his debts during her life.

XIII. Any estate or interest to which a husband may, by virtue of his marriage, be entitled in the real property of his wife, whether acquired before or after the passing of this Act, shall not during her life be subject to the debts of the husband, but this provision shall not affect the right which any person by or under any judgment or execution, hitherto obtained against the husband, has already obtained, in respect of any such estate or interest acquired by a husband before the passing of this Act.

Separate property of wife to be liable for her debts before marriage.

XIV. Every married woman having separate property, whether real or personal, not settled by any ante-nuptial contract, shall be liable upon any separate contract hereafter made or debt incurred by her, before

before marriage, to the extent and value of such separate property, in the same manner as if she were sole and unmarried.

**XV.** Every husband who hereafter takes any interest in the separate real or personal property of his wife, under any contract or settlement on marriage, shall be liable on the contracts made or debts incurred by her before marriage, to the extent or value of such interest only, and no more.

Liability of husband for such debts limited.

**XVI.** Every married woman may make any devise or bequest of her separate property, real or personal, or of any rights therein, whether such property be acquired before or after marriage, to or among her child or children issue of any marriage, and failing there being any issue, then to her husband, or as she may see fit, in the same manner as if she were sole and unmarried; Provided that such devise or bequest be executed in the presence of two or more witnesses, neither of whom shall be her husband; but her husband shall not be deprived by such devise or bequest of any right he may have acquired as tenant by the curtesy.

Married woman may devise or bequeath her separate property, &c.

Provido.

**XVII.** A married woman shall not be liable to arrest either on mesne or final process.

Not be liable to arrest.

**XVIII.** The separate personal property of a married woman dying intestate shall be distributed in the same proportions between her husband and children as the personal property of a husband dying intestate is or shall be distributed between his wife and children; and if there be no child or children living at the death of the wife so dying intestate, then such property shall pass or be distributed as if this Act had not been passed.

Separate personal property of wife dying intestate how to be distributed.

**XIX.** In any action or proceeding at law or in equity, by or against a married woman, upon any contract made or debt incurred by or before marriage, her husband shall be made a party if residing within the Province, but if absent therefrom, the action or proceeding may go on for or against her alone; and in the declaration, bill or statement of the cause of action, it shall be alleged that such cause of action accrued before marriage, and also that such married woman has separate estate; and the judgment or decree therein, if against such married woman, shall be to recover of her separate estate only, unless in any action or proceeding against her, in which her husband

As to actions, &c. against wife for debts contracted before marriage.

Judgment or decree in such cases.

husband has been joined as a party, any false plea or answer has been pleaded or put in by him, when the judgment or decree shall be, in addition, to recover against him the costs occasioned by such false plea or answer, as in ordinary cases.

Act not to affect marriage settlements, &c.

XX. Nothing in this Act contained shall be construed to prevent any ante-nuptial settlement or contract being made in the same manner and with the same effect as such contract or settlement might be made if this Act had not been passed; but notwithstanding any such contract or settlement, any separate, real or personal property of a married woman, acquired either before or after marriage, and not coming under or being affected by such contract or settlement, shall be subject to the provisions of this Act, in the same manner as if no such contract or settlement had been made; and as to such property, and her personal earnings and any acquisitions therefrom, such woman shall be considered as having married without any marriage contract or settlement.

Act limited to U. C.

XXI. This act shall apply only to Upper Canada.

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## MARRIED WOMEN—PROPERTY SECURED.

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### CAP. XXXV.

AN ACT TO AMEND THE LAW ENABLING MARRIED WOMEN TO CONVEY THEIR REAL ESTATE WITHIN UPPER CANADA.

[Assented to 4th May, 1859.]

Preamble.

WHEREAS it is expedient to amend the law enabling married women to convey their real estate within Upper Canada, by providing for cases in which informal and erroneous certificates have been indorsed upon Deeds conveying real estate executed by married women jointly with their husbands, as well as for cases in which such Deeds have been executed in presence of and certificates endorsed thereon by non-resident Justices of the Peace, or in which certificates have been endorsed on such Deeds subsequent to the execution thereof: Therefore, Her

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22 Vict. MARRIED WOMEN—PROPERTY SECURED. Cap. 35, 1859.

Majesty, by and with the advice and consent of the Legislative Council and Assembly, enacts as follows :

I. Whenever any certificate on the back of any Deed heretofore executed by any married women, pursuant to the Act of the said Parliament of Upper Canada, passed in the first year of the reign of his late Majesty King William the fourth, chapter two, or pursuant to the Act of the said Parliament of Upper Canada, passed in the second year of Her Majesty's reign, chapter six, has been signed by two Justices of the Peace, such certificate shall be held and is hereby declared to be valid and effectual for all the purposes contemplated by said Acts, although the said Justices were not at the time residents of the District or County in which such married woman resided; and every Deed heretofore executed in the presence of such Justices, and every such certificate so signed shall have the same force, validity and effect as if the said Deed had been executed in the presence of, and such certificate had been signed by two Justices of the Peace of the District or County in which such married woman at the time of the execution thereof resided.

Certificate under Acts of U. C. 1 W. IV., ch. 2 or 2 V., ch. 6, to be valid, though the Justices were not residents in the County or District in which the married woman resided.

II. When the certificate on the back of any Deed executed by any married woman, pursuant to the said first-mentioned Act, shall have been heretofore given on any day subsequent to the execution of the said deed, such certificate shall be deemed and be taken to have given on the day on which the said deed was executed; and such Deed shall be as good and valid in law as if such certificate had been in fact signed on the day of the execution of the Deed to which it relates, as required by the said Act.

Certificate to be valid though given subsequent to the execution of the deed.

III. In case any married woman seized of or entitled to real estate in Upper Canada, being of the age of twenty-one years, has heretofore executed, jointly with her husband, a Deed for the conveyance of the same, knowing her estate therein and intending to convey the same, such Deed shall be taken and considered as a valid conveyance of the land therein mentioned, and the execution thereof shall be deemed and taken to be valid and effectual to pass the estate of such married woman in the said land, although a certificate of her consent to be barred of her right of Dower of and in such land, instead of a certificate of her consent to convey her estate in the same has been endorsed thereon.

Deed executed by a married woman jointly with her husband to be a good conveyance notwithstanding errors in certificate endorsed.

And notwithstanding the certificate be not in strict conformity to the forms in the said Act.

IV. Whenever the requirements of the Acts of Parliament of the late Province of Upper Canada, or of the Parliament of the Province of Canada, respecting the conveyance of real estate in Upper

Canada by married women, while respectively in force, have been complied with on the execution by any married woman of a deed of conveyance of real estate in Upper Canada then belonging to such married woman, such execution shall be deemed and taken to be valid and effectual to pass the estate of such married woman in the land intended to be conveyed, although the certificate endorsed on such Deed be not in strict conformity with the forms prescribed by the said Acts, or any or either of them.

Act not to prejudice titles subsequently acquired, &c.

V. Provided nevertheless this Act shall not render valid any conveyance to the prejudice of any title subsequently acquired from the married

woman by deed duly executed and certified as by law required, nor any conveyance from the married women which was not executed in good faith, nor any conveyance of land of which the married woman or those claiming under her is or are in the actual possession or enjoyment notwithstanding such conveyance.

Requirements formerly necessary to continue to be so as to conveyances subsequent to this Act.

VI. The requirements heretofore necessary to give validity at law to the conveyance by a married woman of any of her real estate shall continue to be necessary for that purpose with

respect to deeds of conveyance executed after the passing of this Act, notwithstanding any thing contained in this Act or in any Act which has been or may be passed during the present session of Parliament; But this section shall

not affect any other remedy at law or in equity which a purchaser or other person may have upon any contract or deed of a married woman which may be hereafter executed in respect of her real estate.

## ACT TO RELIEVE REGISTRARS OF COUNTIES FROM DISABILITIES.

### CAP. XXXVI.

AN ACT TO RELIEVE REGISTRARS OF COUNTIES IN UPPER CANADA FROM CERTAIN DISABILITIES.

[Assented to 4th May, 1859.]

Preamble.

WHEREAS it is expedient to relieve Registrars of Counties in Upper Canada from the

the disability to practise as Attorneys or Solicitors, imposed upon them by the Act hereinafter cited: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

1. So much of the fifth section of the Act Part of 22 Vict. ch. 94, preventing Registrars from practising as Attorneys, repealed. twenty-second Victoria, chapter ninety-four, to *extend to provisions of the Act to amend the law for Admission of Attorneys*, as provides that no person shall practise as an Attorney or Solicitor of any Court of Law or Equity in Upper Canada, who shall, either in his own person or by his partner, deputy or agent, or in the name of any other person, or otherwise, directly or indirectly hold, possess, practise, carry on or conduct the office of Registrar of any County or Union of Counties in Upper Canada, and that every such person so practising shall be subject to the forfeiture of such office, and shall, in addition thereto, be subject to a penalty of five hundred pounds, shall be, and the same is hereby repealed.

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## FERRIES, C. W.

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### CAP. XLI.

AN ACT TO AMEND THE ACT TWENTIETH VICTORIA, CHAPTER SEVEN, REGULATING FERRIES IN UPPER CANADA.

[Assented to 4th May, 1859.]

**H**ER Majesty, by and with the advice and Preamble. consent of the Legislative Council and Assembly of Canada, enacts as follows:

I. The fifth section of the Act passed in the Sect. 5 of 20 V., c. 7, extended to certain cases. twentieth year of Her Majesty's Reign, and intitled, *An Act to amend the Laws regulating Ferries, so as to encourage the employment of Steamboats as Ferry-boats in Upper Canada*, shall be so construed as to extend and apply to all such Ferries on the Provincial Frontier, the circumstances of which do not permit or warrant the peremptory use of Steamboats.



# REGISTERING PLANS OF VILLAGES.

## CAP. XLII.

AN ACT TO AMEND THE ACT TWELFTH VICTORIA, CHAPTER THIRTY-FIVE, IN SO FAR AS RELATES TO THE DEPOSITING OF PLANS OF VILLAGES IN THE REGISTRY OFFICES OF UPPER CANADA.

[Assented to 4th May, 1859.]

Preamble. **W**HEREAS there are many unincorporated Villages in Upper Canada of which no plan or map has been deposited pursuant to law in the Registry Office of the County within which the same are respectively situate, in consequence of the several original owners of the lands comprising the said Villages either not having jointly laid out and surveyed the same, or because some of the original owners left no legal representatives; And whereas it is necessary that the law regulating the depositing of Plans of such Villages in the Registry Office of the County within which the same are respectively situated, be amended: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Where no plan of an unincorporated village has been registered. Township Council to cause one to be made.

I. In each and every case in Upper Canada where an unincorporated Village comprises different parcels of land owned at the original division thereof by two or more persons, and the same was not jointly surveyed and laid out into a village plot, and where in such case no entire plan or map of the said Village has been deposited with the Registrar of the County within which the same is situate, it shall be lawful for the Municipality of the Township within which the said Village is situate, and they are hereby required, immediately upon the passing of this Act to cause a plan of such Village to be made on the scale now required by law, and deposited in the Registry Office of the County within which the said Village is situate; and the expense attending the getting up of the map and depositing it as aforesaid shall be paid out of the general funds of the Municipality, or by a local tax upon the rate-payers of the Village.

Public Act. II. This Act shall be a Public Act.

# JOINT STOCK COMPANY, &C.

## CAP. XLIII.

AN ACT TO AMEND THE ACTS UNDER WHICH JOINT STOCK ROADS AND OTHER SIMILAR WORKS ARE CONSTRUCTED IN UPPER CANADA.

[Assented to 4th May, 1859.]

**W**HEREAS doubts exist as to the rights which pass under sales of Roads and other works constructed in Upper Canada, under the Joint Stock Companies' Acts, and it is expedient to remove such doubts: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

*Preamble.*

*Sale of works to pass the rights of the Company with respect to such works, to the purchaser.*

I. Whenever any Road, Bridge or Pier, or Wharf constructed by any Joint Stock Company, incorporated under the laws of Upper Canada, shall have been or shall hereafter be sold, either by such Joint Stock Company, or under some power granted by them, or under legal process against such Company, the sale or sales shall, in all cases, be deemed to have passed and to pass such Roads, Bridges and Piers, or Wharves to the purchaser or purchasers thereof, with all the rights, privileges and appurtenances, and subject to all the duties and obligations which the law gave or imposed with reference to such Road, Bridge, Pier or Wharf, whilst the same continued the property of the Joint Stock Company which had constructed the same.

# AGRICULTURE, C. W.

## CAP. XLIV.

AN ACT FOR THE PROMOTION OF AGRICULTURE IN UPPER CANADA.

[Assented to 4th May, 1859.]

**W**HEREAS it is expedient to encourage the formation of Joint Stock Companies authorised

*Preamble.*

authorised

authorised to hold land and erect edifices to be used for the holding of periodical fairs or exhibitions for agricultural purposes: And whereas the delay and expense incident to obtaining any special Act of incorporation from the Legislature for each separate Company operates as a great discouragement to persons desirous of embarking capital for the formation of such Companies: And it is therefore expedient that a general law should be passed to enable Joint Stock Companies to purchase and hold land for the purposes aforesaid, and to construct suitable buildings thereon, and to empower Municipal Corporations to subscribe a portion or the whole of the necessary capital for the purposes aforesaid: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Companies may be formed for purposes mentioned in the Preamble.

I. Any number of persons, not less than five, may, in Upper Canada, form themselves into a Company under the provisions of this Act, for the purposes aforesaid.

Conditions on which any such Company may become incorporated.

II. When any number of persons not less than five shall have subscribed a sufficient quantity of stock to amount to a sum equal in their judgment to the amount required for the purchase of the ground necessary for an edifice to be used for the purposes mentioned in the preamble of this Act, and the erection of such edifice thereon and of the additional ground required for the Agricultural fairs or exhibitions, and shall have executed an instrument according to the form in the schedule A. to this Act contained; and shall have paid to the Treasurer of such intended Company twenty-five per cent. upon the capital stock intended by such Company to be raised for the purposes aforesaid, and shall have registered such instrument at full length together with a receipt from the Treasurer of such Company for such first instalment of twenty-five per cent. with the Registrar of the County or City in which such edifice shall be or shall be intended to be built, such Company shall thenceforth become and be a body corporate by such name as shall be designated in the instrument so to be registered as aforesaid; and they and their successors by their corporate name shall be capable of taking, purchasing, having and holding any piece or parcel of land in Upper Canada for the purpose of erecting such edifice as aforesaid, and also for holding such fairs or exhibitions as aforesaid; such parcel of land not to contain more than one hundred acres.

Directors.

III. The affairs, property and concerns of every such

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such Company, which shall or may be formed under the provisions of this Act, shall be managed by not less than three nor more than nine Directors who shall be shareholders and subjects of Her Majesty, and a majority of whom shall form a quorum capable of doing business, which said Quorum.  
Directors shall in the first instance be chosen by Election.  
ballot from among the subscribers to the said instrument so to be registered as aforesaid, and thereafter shall be annually elected by the said stockholders, on the second Monday in January in each and every year; and upon the Voters.  
first and every such election of Directors each shareholder shall be entitled to one vote for every share he may hold or be possessed of up to ten, and one vote for every five shares above ten; but no stockholder shall be allowed Shares must be paid up.  
to vote at any election unless he shall have paid all calls upon each share he may hold.

IV. The Directors or a majority of them shall, at their first annual meeting, elect one of their number to be President.  
President of such Company, and the President, if present, (or if not present then some Director chosen for the occasion), shall preside at all meetings, and in case of equality shall have the casting vote; And the said Directors Casting vote.  
may pass By-laws for the regulation of the affairs By-laws, &c.  
of such Company, and shall keep a book in which shall be recorded all By-laws and proceedings, and to which any person shall have access for the purpose of searching the same and making extracts therefrom, without payment of any fee whatsoever.

V. Every such Company shall have a Secre- Secretary and officers.  
tary and Treasurer and such subordinate officers  
as the Company by its By-laws may require, who shall be elected by the Directors and required to give such security for the faithful performance of the duties of their respective offices as the Company by its by-laws may provide.

VI. Each share in every such Company shall Shares.  
be twenty dollars, and shall be regarded as per- To be personally.  
sonal property, and shall be transferable upon the books of the Company, in such manner as shall be provided for by the Directors in that behalf.

VII. It shall be lawful for the Directors of any Calls.  
such Company, to call in and demand from the stockholders thereof respectively all sums of money by them subscribed, at such times and in such payments or instalments as such Directors

Directors shall deem proper, under the penalty of forfeiting the shares of stock subscribed for and all previous payments made thereon, if payment shall not be made by the stockholders respectively, within sixty days after a personal demand, or after notice requiring such payment shall have been published for six successive weeks in the newspaper nearest the place where the business of the Company shall be carried on as aforesaid.

Municipalities  
may take stock, &c.

VIII. It shall be lawful for any Municipal Corporation in Canada to subscribe for, acquire, accept, and hold, and to depart with and transfer stock in any Company to be formed under the authority of this Act, and from time to time to direct the Mayor, Warden, or other chief officer thereof, on behalf of such Municipality, to subscribe for such stock in the name of such Municipality, and to act for and on behalf of such Municipality, in all matters relative to such stock, and the exercise of the rights of such Municipality as a stockholder; and the Mayor, Warden, or other chief officer shall, whether otherwise qualified or not, be deemed a stockholder in the Company, and may vote and act as such, subject always to such rules and orders in relation to his authority, as shall be made in that behalf by such Municipality, by their By-laws, or otherwise, but acting according to his discretion in cases not provided for by such Municipality; and it shall be lawful for such Municipality to pay for all instalments of the stock they shall subscribe for and acquire, out of any moneys belonging to such Municipality, and not specially appropriated to any other purpose, and to apply the money arising from the dividends or profits on the said stock, or from the sale thereof, to any purpose to which unappropriated moneys belonging to such Municipality may be lawfully applied.

Municipal Corporations may lend money to such Company.

IX. It shall also be lawful for any Municipal Corporation in Canada to lend money to any Company to be formed under this Act out of any moneys belonging to the Municipality, and not appropriated to any other purpose, and to effect such loan upon such terms and conditions as may be agreed upon between such Company and the Municipality making such loan, and to recover the money so lent, and to appropriate the moneys so recovered to the purposes of such Municipality.

Recovery of calls  
of stock.

X. Any such Company so to be incorporated as aforesaid may, in any Court having jurisdiction  
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in matters of simple contract to the amount demanded, sue for, recover, and receive of or from any stockholder in such Company, the amount of any call or calls of stock which such stockholder may neglect to pay after public notice thereof in the newspaper nearest the place where the business of the Company shall be carried on as aforesaid.

XI. In any action or suit to be brought by any such Company against any stockholder to recover any money due for any call, it shall not be necessary to set forth the special matter, but it shall be sufficient for the Company to aver that the defendant is the holder of one share or more (stating the number of shares) in the stock of the said Company, and that he is indebted to the Company in the sum of money to which the calls in arrear shall amount, in respect of one call or more upon one share or more, (stating the number and amount of each of such calls,) whereby an action hath accrued to the Company by virtue of this Act.

What only need be stated in any action for calls.

XII. On the trial or hearing of such action it shall be sufficient for the Company to prove that the defendant, at the time of making such call, was a holder of one share or more in the undertaking, (and when there has been no transfer of the shares, then the proof of subscription to the original agreement to take stock shall be sufficient evidence of holding stock to the amount subscribed,) and that such call was in fact made, and notice thereof given as is required; and it shall not be necessary for the Company to prove the appointment of the Directors who made such call, or any other matter whatsoever; and thereupon the Company shall be entitled to recover what shall be due upon such call with interest thereon, unless it shall appear that due notice of such call was not given.

What only need be proved in any such action.

XIII. In any action or suit brought by or against any such Company upon any contract, or upon any matter or thing whatsoever, any stockholder, or any officer or servant of the Company shall be competent as a witness, and his testimony shall not be deemed inadmissible on the ground of interest, or of his being such servant or officer.

Members, &c., of the Company may be witnesses.

XIV. If any action or suit shall be brought against any person or persons for any matter or thing done in pursuance of this Act, such action or suit shall be brought within six calendar months next after the fact committed, and not afterwards; and the defendant or defend-

Limitation of suits for things done under this Act.

ants in such action or suit may plead the general issue only, and give this Act and the special matter in evidence on the trial.

Act limited to Upper Canada.

XV. This Act shall be a Public Act, and shall apply to Upper Canada only.

### SCHEDULE A.

Be it remembered, that on this \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord, one thousand eight hundred and \_\_\_\_\_, we, the undersigned stockholders, met at \_\_\_\_\_, in the \_\_\_\_\_ County of \_\_\_\_\_, in the Province of Canada, and resolved to form ourselves into a Company, to be called *(here insert the corporate name intended to be taken by the Company)* according to the provisions of a certain Act of the Parliament of this Province, intituled, *An Act for the promotion of Agriculture in Upper Canada*, for the purpose of purchasing a parcel of land in the County of \_\_\_\_\_, and erecting thereon suitable buildings to be used for the purpose of holding periodical fairs or exhibitions for Agricultural purposes; and we do hereby declare that the capital stock of the said Company shall be \_\_\_\_\_ pounds, to be divided into shares at the price or sum of twenty dollars each; And we, the undersigned stockholders, do hereby agree to take and accept the number of shares, set by us opposite to our respective signatures, and we do hereby agree to pay the calls thereon, according to the provisions of the said in part recited Act, and the rules, regulations, resolutions and By-laws of the said Company, to be made or passed in that behalf; And we do hereby nominate *(the names to be here inserted)* to be the first directors of the said Company.

## BUILDING SOCIETIES, C. W.

### CAP. XLV.

AN ACT TO AMEND THE LAW RESPECTING BUILDING SOCIETIES IN UPPER CANADA.

[Assented to 4th May, 1859.]

Preamble  
9 V. c. 90.  
WHEREAS, under the Act passed in the ninth year of the reign of Her Majesty, intituled, *An Act to encourage the establishment of certain Societies*

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*cieties, commonly called Building Societies, in that part of the Province of Canada formerly called Upper Canada, certain Building Societies have been established called Permanent Building Societies, which have in a great measure superseded those Societies called terminating Building Societies, and are conducted on more certain and equitable principles than the said terminating Building Societies, by enabling persons to become members thereof at any time for investment therein or to obtain the advance of their shares or share by giving security therefor, and to fix and determine with the said Society the time and amount which such members shall repay such advanced share or shares and obtain the release of the said security, without being liable to the contingency of losses or profits in the business of the said Society; And whereas doubts have arisen as to whether such Permanent Building Societies are within the meaning and intention of the said recited Act; And whereas it is expedient to remove such doubts and to encourage Building Societies established on the said Permanent principle: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:*

1. Any Permanent Building Society established, or hereafter to be established, under the said hereinbefore said recited Act and the amended Act thereto, and conducted on the principle hereinbefore mentioned, which shall have fulfilled and observed all the conditions necessary to be fulfilled and observed for the establishment of a Building Society under the said recited Acts, shall be and the same is hereby declared to be and to have been a Building Society within the meaning and intention of the said recited Acts, and to be and to have been entitled to all the powers, benefits and advantages of the said recited Acts; and any person or persons who shall have signed the Rules and Regulations of any such Building Society entered and recorded in a book, as in the fifth section of the said recited Act, passed in the ninth year of Her Majesty's reign, is required, and shall have subscribed his name as a shareholder for one or more shares, shall, from the time of such signature and subscription, be and be deemed to have been a member or members of such Building Society; and the production of the book containing the rules for the management of such Society, kept as in the fifth section of the said Act is required, signed by such person and duly witnessed, shall, at all times and for all purposes, be sufficient evidence of membership in such Building Society.

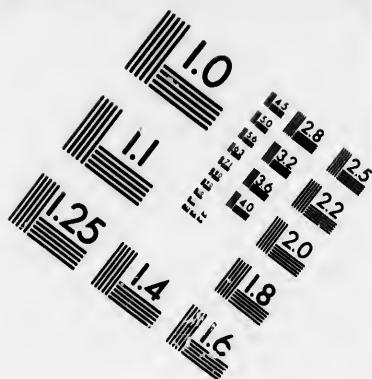
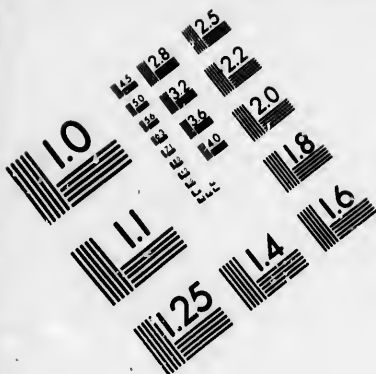
Permanent Societies having fulfilled certain conditions declared to be within this Act.

And their subscribers to be Members.

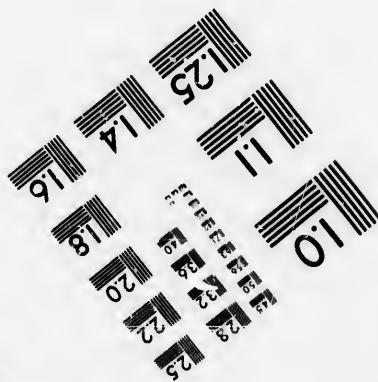
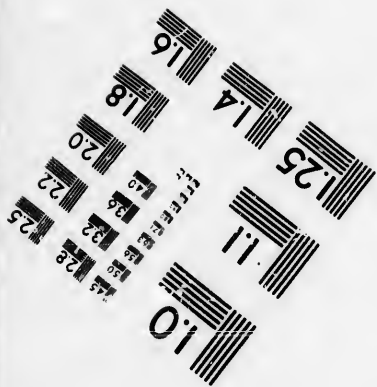
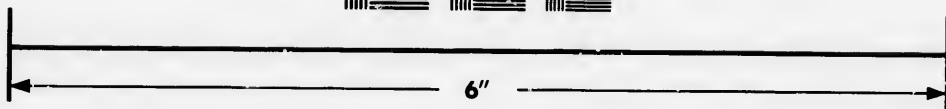
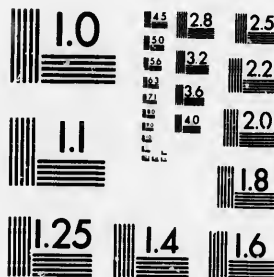
Evidence of Membership.







**IMAGE EVALUATION  
TEST TARGET (MT-3)**



**Photographic  
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How By-laws of Permanent Societies may be passed or amended.

II. It shall be lawful for any Permanent Building Society to alter, amend, repeal or create any Regulation, Rule or By-law for the working of the said Society at a public meeting of the members of such Society, convened as is directed by the said seventh section of the said Act, and at which public meeting one third of the members of the said Society, entitled to vote by the Rules of the said Society, and representing not less than two thirds of the unadvanced Stock of such Society, shall, either in writing under their hand or by a vote at such meeting, concur in such alteration, amendment or repeal of such Regulation, Rule or By-law, or in the creation of any new Rule, Regulation or By-law.

Amount to which Societies may borrow money limited.

III. Every such Society, by its Rules, Regulations and By-laws authorised to borrow money, shall not, at any time after the passing of this Act, borrow, receive, take or retain, otherwise than in stock and shares in such Society, from any person or persons, any greater sum than three fourths of the amount of capital actually paid in on unadvanced shares, and invested in real securities by such Society; and the paid in and subscribed capital of the Society shall be liable for the amount so borrowed, received or taken by any Society.

Shareholder whose share is paid up, may receive or invest the amount.

IV. When any share or shares in any Society shall have been fully paid up according to the rules of the Society, or shall have become due and payable to the holder thereof, then and in such case it shall be lawful for the holder of such share or shares, either to withdraw the amount of his share or shares from the said Society, according to the rules and regulations thereof, or to invest the amount of his said share or shares in the Society, and to receive therefrom periodically such proportion of the profits made by such Society as shall be provided for by a By-law to be passed for the purpose; and the amount of such share or shares so invested shall become fixed and permanent capital or shares in the said Society not withdrawable therefrom, but transferable in the same manner as other share or shares in the said Society.

Advances on security of investing on unadvanced shares.

V. It shall be lawful for such Society to advance to members on the Security of investing on unadvanced shares in the said Society, and to receive and take from any person or persons, or bodies corporate, any real or Personal Security of any nature or kind whatever as Collateral Security or advance made to Members of the Society.

VI. It shall be lawful for any Society to hold absolutely Real Estate for the purposes of its place of business, not exceeding the annual value of six Thousand Dollars.

holding real estate.

VII. Such Society shall not be bound to see to the execution of any Trust, whether expressed, implied, or constructive, to which any share or shares of its stock shall be subject; and the receipt of the party in whose name any such share or shares shall stand in the books of the Society, or if such share or shares shall stand in the name of more parties than one, the receipt of one of the parties shall, from time to time, be a sufficient discharge to the Society for any payment of any kind made in respect of such share or shares, notwithstanding any Trust to which such share or shares may then be subject, and whether or not such Society shall have had notice of such Trust; and the Society shall not be bound to see to the application of the money paid upon such receipt, any law or usage to the contrary notwithstanding.

Society not bound to see to trusts to which its stock is subject.

What receipts shall be sufficient

VIII. Nothing in this Act contained shall apply to affect any action or suit now pending at law or in equity.

Act not to affect pending cases.

## MUTUAL FIRE INSURANCE COMPANIES IN UPPER CANADA.

### CAP. XLVI.

AN ACT TO AMEND AND EXTEND THE ACTS RELATING TO MUTUAL FIRE INSURANCE COMPANIES IN UPPER CANADA.

[Assented to 4th May, 1859.]

**W**HEREAS it is expedient to extend the provisions of the Act of the late Province of Upper Canada, passed in the sixth year of the Reign of His Majesty King William the Fourth, intituled, *An Act to authorise the establishment of Mutual Insurance Companies in the several Districts of this Province*, and of the Acts amending the same, so as to provide for the more speedy and certain payment of losses incurred, by enabling **Mutual Insurance**

Preamble.

0 W. 4, c. 18.

Insurance

insurance Companies to possess a guarantee capital, to assume such corporate name as the Directors may deem expedient, and to collect premiums in full, in cash, in certain cases: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Any Mutual Insurance Company may raise a guarantee capital not to exceed \$500,000.

I. Any Mutual Fire Insurance Company formed under the Acts above cited shall have power to raise by subscription of its members or some of them, or the admission of new members not being persons assured by the Company, or by loan, or otherwise, a guarantee capital of any sum not exceeding five hundred thousand dollars, which guarantee capital shall belong to such Company, and shall be liable for all the losses, debts, and expenses of the Company; and subscribers of such capital stock shall in respect thereof have such rights as the Directors of the Company shall declare and fix by a By-law to be passed before such capital shall be raised, and which shall not thereafter be repealed or altered without the consent of the majority of votes of the shareholders of such capital, either personally or by proxy, at a meeting held for that purpose,) each holder being entitled to a vote for every share of forty dollars held by him or her,) of the holders of such capital; unless such capital be paid off in the manner hereinafter provided.

Rights of subscribers to such capital.

Company may adopt a new corporate name.

II. Any such Company shall have power to adopt, by a by-law passed in the usual manner, any corporate name which the Directors may deem expedient, provided they retain the appellation of Mutual, but such corporate name shall not thereafter be changed so long as the Company shall subsist.

Company may create a Reserve Fund and pay off guarantee capital.

III. Any such Company shall have power to create from the surplus profits of the Company, from year to year, a Reserve Fund for the purpose of paying off the guarantee capital, after which its affairs and property shall revert to and be vested in the parties insured, as the sole members of the Company.

May take premium in cash.

IV. Any such Company shall have power to collect premiums in cash for insurance for terms not longer than one year, and such portion of the premium notes as the Directors may consider equitable and necessary on all insurances for terms longer than one year.

V. Any such Company shall have power to May divide profits. make a periodical division of profits of the Company equitably among the stockholders and policy holders of the Company, after providing for the Reserve Fund above referred to.

VI. Any such Company shall have power to May insure in L. C. or U. C. extend its operations to any part of Lower Canada and Upper Canada.

VII. Any such Company shall have power, Directors—Quorum. under a By-Law to be passed for that purpose, to elect any number of Directors, not less than seven or more than fifteen; and any three Directors shall be a quorum.

VIII. The Directors of any such Company shall have power to recover in any court of competent jurisdiction any assessment or call on the shares of guarantee capital, or to cancel such shares and forfeit the instalments already paid, as they may think fit. Directors may call in guarantee capital.

IX. The Directors of any such Company shall have power to invest the capital and funds of the Company in mortgages on real estate, bank stock, shares in Building Societies, and such other securities as the Directors may deem profitable and safe. May invest the funds of the Company.

X. The Directors of any such Company shall have power, under By-laws to be passed regulating the manner in which such power shall be exercised, to make promissory notes, make or accept bills or drafts, or issue debentures for the payment of losses, expenses or for other purposes of the Company, and to issue certificates or scrip for shares in the guarantee capital stock of the Company, but they shall not issue any note payable to bearer, or intended to circulate as money or as a bank note, nor shall the Company or the Directors in any way exercise the business of banking. Directors may make promissory notes, &c.

XI. The Directors of any such Company shall have power to make By-laws for the effectual carrying out of the objects contemplated by the several Acts hereinabove cited and referred to and of this Act, and from time to time to alter and amend the same, except in cases with regard to which it is provided that any such By-law shall not be repealed, or where such repeal would affect the rights of others than members of the Company, in any of which cases such By-laws shall not be repealable. Directors may make By-laws for certain purposes.

As to voting by proxy.

XII. No agent, paid officer or employee of any such Company shall be eligible to be elected a Director, or be allowed to hold proxies or interfere in the election of Directors of such Company; All proxies shall bear date at least three months before the election at which they are used, and be filed with the Secretary of the Company within the same period.

Party intending to effect additional insurance elsewhere may notify the Company.

XIII. Whenever notification in writing shall be given to any Company by an applicant for insurance, or by a person already insured, of his intention to insure, or of his having insured an additional sum on his property in some other Company, the said additional assurance shall be deemed assented to, unless the Company, so notified, shall, within two weeks after the receipt of such notice, signify to the party in writing their dissent; and in case of such dissent, the liability of the insured on the premium note shall cease from the date of such dissent on account of any loss that may occur to such Company thereafter.

## HOMŒOPATHY.

### CAP. XLVII.

#### AN ACT RESPECTING HOMŒOPATHY.

[Assented to 4th May, 1859.]

Preamble.

WHEREAS the system of Medicine called Homœopathy is much approved and extensively practised in many countries in Europe, in the United States and also in Canada; And whereas it is expedient to extend to duly qualified practitioners of this system privileges similar to those enjoyed by licentiates of medicine under the laws now in force in this Province: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

First Board of examiners appointed.

I. Until other persons are appointed, as hereinafter provided, Duncan Campbell, of the City of Toronto, M.D., Joseph J. Lancaster, of the Town of Galt, M.D., Alexander Thompson Bull, of the City of London, M.D., William A. Greenleaf, of the City of Hamilton, M.D., and



and John Hall, of the City of Toronto, M.D., shall be a Board (of whom three shall be a quorum) to examine all persons who may desire to obtain a license to practise medicine, according to the doctrines and teachings of Homœopathy, within this Province.

II. The Board may appoint a Secretary and Treasurer, who shall attend all the meetings, and keep a record of all the proceedings of the Board, in a book to be provided for the purpose.

Secretary and Treasurer.

III. The Board shall hold two meetings in the City of Toronto in each year, viz: on the first Tuesday in January and July respectively, which may be continued by adjournment from day to day until the business before the Board be finished, but no session shall exceed one week.

Meetings of the Board.

IV. The Secretary may at any time, on the requisition of two members of the Board, call an extraordinary meeting of the Board for the purpose of examining candidates, and for the transaction of such other business as may come before it.

Extraordinary Meetings.

V. Every person who desires to be examined by the said Board, touching his qualifications to practise Physic, Surgery and Midwifery, or either of them, according to the doctrines and teachings of Homœopathy, shall give at least one month's notice in writing to the Secretary of the Board; and must show that he is not less than twenty-one years of age, that he has followed medical study uninterruptedly for not less than four years under the care of one or more duly qualified Medical Practitioners, and that he has attended at some University or Incorporated School of Medicine not less than two six months' courses of Anatomy, Physiology, Surgery, Theory and Practice of Medicine, Midwifery, Chemistry, Materia Medica and Therapeutics, respectively, and not less than one six months' course of Clinical Medicine and Medical Jurisprudence respectively.

Notice by persons wishing to be examined: and what it must show

VI. If the Board be satisfied by such examination that the person is duly qualified to practise either or all the said branches of Medicine, as they are understood and practised by Homœopaths, they shall certify the same under the hands and seals of two or more of such Board.

Certificate to be granted.

License on such certificate.

VII. The Governor, on the receipt of such certificate, may, if satisfied of the loyalty, integrity and good morals of the applicant, grant to him a license to practise Physic, Surgery and Midwifery, or either of them, in Upper Canada, conformably to the certificate.

License to members of the Board.

VIII. The Governor may, without any special certificate, grant the Provincial License to practise to such of the above-named members of the Board as have not yet obtained it.

Board may make By-laws.

IX. The Board shall have power to make By-laws for the regulation of its own affairs, which, however, shall not take effect until they have been published in the *Canada Gazette*.

Order of retirement of Members.

X. At the meeting in July, one thousand eight hundred and sixty, the Board shall determine by lot which three of its members shall retire, and shall immediately publish their names in one of the Toronto newspapers, and such retiring members shall then only hold office until their successors are appointed; the other members of the Board shall vacate their seats (if successors are appointed) from and after the meeting in January, one thousand eight hundred and sixty-two.

Election to supply vacancies.

XI. The practitioners licensed under this Act and resident in this Province may meet at Toronto, on any day during the January session of the Board in one thousand eight hundred and sixty-two, and on any day during such January session in each year thereafter, and may at such meeting elect, by a majority of votes, either two or three fit and proper persons to be members of the said Board in the place of the retiring members (who shall be eligible for re-election,) and the members so elected shall hold office for two years only, or until successors are elected as aforesaid.

Public Act.

XII. This Act shall be deemed a Public Act.

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## SEIGNORIAL AMENDMENT ACT, 1359.

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### SCHEDULE.—FORM A.

Public notice is hereby given that the Schedules of the several Seigniories, Fifes and Arrière Fifes,—(or the Schedule  
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or Schedules of the Seignior, or Seigniories, Fief or Fiefs, &c., of \_\_\_\_\_, in the Districts of \_\_\_\_\_, )—or the Schedules of the several Seigniories, Fiefs, &c., in the District of \_\_\_\_\_, (as the case may be,) in that part of the Province of Canada, known as Lower Canada, shewing the *rentes constituées*, into which the Feudal and Seigniorial rights, dues, charges, obligations and rents, due and payable upon each land and emplacement in each Seignior, Fief or Arrière-Fief, respectively (or, in the said Seignior &c.) are converted, are (or is) completed, and that duplicates (or a duplicate) thereof, and abridged triplicate Schedules (or an abridged triplicate Schedule) thereof have (or has) been deposited in the offices of the Prothonotaries of the Superior Courts of the Districts of \_\_\_\_\_ (as the case may be,) (or, of the Prothonotary of the Superior Court for the District of \_\_\_\_\_), and that triplicate abridged Schedules (or a triplicate abridged Schedule) have (or has) been deposited in the office of the Receiver-General of this Province; and that the duplicate Schedules (or Schedule) of the said Seigniories, Fiefs, &c., (or Seignior, Fief, &c.) remain (or remains) in the hands of the Commissioners under the Seigniorial Act of 1854, according to the provisions of the Seigniorial Amendment Act of 1859.

Dated, &c.

A. B. } Commissioners under the  
C. D. } Seigniorial Act of 1854.

GROUND RENTS AND LIFE RENTS IN LOWER CANADA.

CAP. XLIX.

ACT TO AMEND IN CERTAIN RESPECTS THE LAW RELATING TO GROUND RENTS AND LIFE RENTS, IN LOWER CANADA.

[Assented to 6th May, 1859.]

WHEREAS it is expedient to amend the Preamble. Laws presently in force in Lower Canada, as to rents (*Rentes*) charged upon real estate, and to facilitate the redemption thereof: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

No perpetual irredeemable rent to be created hereafter, &c.

I. From and after the passing of this Act, there shall not be created under any description of instrument whatsoever, any perpetual irredeemable ground rents, (*rentes foncières perpétuelles non rachetables*), nor yet any rent to affect real estate irredeemably for a term of more than ninety-nine years, or for more than three lives; but all such rents as aforesaid, if stipulated, shall at all times be redeemable at the option of the debtor thereof, and be subject to all the laws and rules governing ordinary constituted rents, (*rentes constituées à perpétuité*) as to the redemption thereof and otherwise, save and except as to prescription which shall be that of thirty years for such rents and the arrears thereof.

Terms of redemption may be stipulated by deed creating any rent.

II. It shall be lawful for the parties to any instrument for the transfer of real estate (*titre translatif de propriété immobilière*), whether by sale or otherwise, to regulate thereby, as they shall see fit, the terms on which any rent which they may thereby create, shall be redeemable, and also to stipulate that the same shall not be redeemable until after the expiration of any period not exceeding thirty years; and if in any case the parties shall stipulate that any such rent shall not be redeemable until after the expiration of any period not exceeding ninety-nine years, but exceeding thirty years, such stipulation shall for such excess over the period of thirty years be null and void.

But the period of non-redemption shall not exceed 30 years.

All rents already created to be redeemable, if owned by a Corporation or party capable of alienating them, and on what conditions.

III. All rents, other than those hereinafter excepted, which, before the passing of this Act, may have been charged upon any real estate, by any instrument for the transfer thereof (*titre translatif de propriété*) whether by sale or otherwise, either as perpetual irredeemable ground rents (*rentes foncières perpétuelles non rachetables*), or as rents to affect such real estate irredeemably for a term of more than ninety-nine years, or for more than three lives, if owned by any Corporation or by any person capable in law of alienating the same, shall hereafter be redeemable at the option of the holder (*détenteur*) of such real estate, on any day whereon any payment (*arrérages*) of such rent shall fall due; but no such rent shall be so redeemable if the right of the owner (*créancier*) thereof be only conditional or limited, or if such rent be charged by emphyteotic lease (*crée à titre de bail emphytéotique*); Provided always, that such holder shall have given one full year's notice to the owner (*créancier*) of the rent, of his intention to redeem the same on such day, and shall on such day duly pay or tender

Proviso: Notice to be given.

tender the full amount of the capital of such rent, and of all arrears (*arrérages*) thereof; And provided also, Proviso: If not redeemed pursuant to notice. that if, after such notice given, payment or tender be not made on such day, the owner (*créancier*) of the rent shall be under no obligation by reason of such notice to receive the same, but in his option may either insist on the continued payment of such rent as stipulated, or may at any time within one year thereafter sue for and recover, as well personally against the party who may have given such notice as hypothecarily against any third party holder (*détenteur*) of the real estate, the full amount of such capital and arrears, with interest thereon from such day, and liquidated damages at the rate of ten per centum thereon, and costs of suit.

IV. It shall be lawful for any corporation to invest in real estate, or upon security thereof, the amount of the capital of any rent redeemed or recovered under this Act. Corporation may invest redemption money in or upon real estate.

V. Whenever the amount of capital of any rent to be redeemed under this Act, shall not have been stated in the instrument creative thereof, the same shall be calculated from the amount of such rent at the rate of five per centum per annum, if the date of such instrument be prior to the Fourth of March, one thousand seven hundred and seventy-seven, and at the rate of six per centum per annum, if the date thereof be on or subsequent to that day; and whenever such rent shall be wholly or in part payable in kind, the value of the same shall and may be calculated for the redemption thereof, at the fair money value of the articles wherein the same may be so payable. Calculation of capital of a rent where it is not stated.

Vi. Nothing in this Act contained shall be construed to affect in any wise howsoever any seigniorial rent (*rente seigneuriale*), or any rent created or to be created under the Seigniorial Act of 1854, and the Acts amending the same, or any rent stipulated by any lease or grant from the Crown, or from any department of the Government, or to render redeemable any *rente viagère* heretofore created, or any *rente viagère* hereafter to be created, for not more than three lives, or to abridge or otherwise alter the term now fixed by By-law for the prescription of any irredeemable rent heretofore created and hereby made redeemable or of the arrears thereof. Act not to apply to certain cases.

VII. This Act shall apply to Lower Canada Act limited to Lower Canada. only.

# POOF OF INSTRUMENTS—LOWER CANADA.

## CAP. L.

AN ACT TO AMEND AN ACT TO FACILITATE THE PROOF IN LOWER CANADA OF CERTAIN INSTRUMENTS EXECUTED WITHOUT THAT SECTION OF THE PROVINCE.

[Assented to 4th May, 1859.]

Preamble.

<sup>22 v. c. 7.</sup> **W**HEREAS it is expedient to amend the Act passed in the twenty-second year of Her Majesty's reign, intituled, *An Act to facilitate the proof in Lower Crnada of certain Instruments executed without that section of the Province*: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Copy of power of Attorney executed abroad before a Mayor, &c., produced in evidence to be made by Prothonotary.

I. In all cases where any Power of Attorney purporting to be executed out of Lower Canada, in the presence of one or more witnesses, and to be authenticated by or before any Mayor or other Magistrate, Judge of any Court of Record, British Consul or other Public Officer of the country where it bears date, has been or may be produced by any witness or witnesses who decline to part with such original, it shall be the duty of the Prothonotary or Clerk of the Court in which such cases shall or may be pending, forthwith to make a true and exact copy of such Power of Attorney, at the cost and charges of the party or parties requiring the same, and to certify and deposit the same in such cases; and such copy so certified and deposited shall be taken and received by and before all Courts and elsewhere in Lower Canada, as *prima facie* evidence of the original and of due execution thereof; and such Power of Attorney shall be held and taken to be authentic and duly proved in the manner aforesaid, unless the authenticity thereof be specially put in issue as hereinafter mentioned.

Authenticity of original may be denied on affidavit.

II. It shall be competent for any interested party to deny the authenticity of the original of any copy by filing an affidavit before the closing of the evidence or *Enquête* of the party or parties producing such copy, or in whose interest it shall or may be filed, to the effect that

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he has reason to doubt and does not believe that the same was executed or attested by the person or persons, nor in the manner it purports to be, and by entering security to the satisfaction of a Judge, for all costs attending the execution of any commission to be issued to prove such Power of Attorney; it shall then be incumbent on the party wishing to use the copy to prove the original thereof in due form of law, to which end the party having the custody of such original shall be bound, on the order of any judge, to deposit the same in court, in the cause wherein it is put in issue, receiving in return from the Prothonotary or Clerk thereof, at the expense of the party by whom its authenticity is denied, a copy thereof certified as aforesaid; and it shall be the duty of all Judges and Courts to grant such order or petition, any law or custom to the country notwithstanding; and the original may thereupon be annexed to any Commission to be issued for the proof thereof.

It must then be proved, and how.

III. If such Power of Attorney is duly proved, all costs incurred on the proceeding for proving it shall be taken against and payable by the party denying the authenticity of the same, whatever may be the final judgment in the cause; and in any case, when the cause is finally decided by a judgment in the last resort, or from which there is no appeal, or when the delay to appeal has expired, it shall be the duty of the Prothonotary or Clerk to return the original Power of Attorney to the party who deposited the same or his legal representative on demand, taking a receipt for the same.

Costs of proving against whom to be taxed.

IV. The said Act now being amended shall apply to all cases pending when the said Act came into force, and to all Notarial copies of Powers of Attorney of the description in the said Act mentioned, filed in such cases; and any person wishing to deny the authenticity of any original Power of Attorney contemplated by that Act, in any such case, where the party may have pleaded before the said Act came into force, shall file the affidavit and give the security mentioned in the second section of the said Act within one month from the day on which this Act shall come into force and effect, in default whereof such original Power of Attorney shall be held and taken to be authentic and duly proved in the manner in the said Act mentioned.

The said Act to apply to cases where it came into force: how party denying authenticity of power produced under it shall proceed.



# FRAUDULENT CONVEYANCE.

## CAP. LI.

AN ACT TO PREVENT THE FRAUDULENT CONVEYANCE OF REAL ESTATE CHARGED WITH HYPOTHECS, AFTER PROCEEDINGS HAVE BEEN INSTITUTED TO ENFORCE PAYMENT THEREOF.

[Assented to 4th May, 1859.]

Preamble.

**W**HEREAS it often happens that debtors, with the view of defrauding their creditors, sell or alienate their real estate after their creditors have taken proceedings at law for the recovery of debts for which such real estate has been hypothecated, thereby exposing them to the inconvenience of commencing new proceedings, and often to the loss of their debts, and it is expedient to provide for the prevention of frauds of this nature: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Sale, &c., made after proceedings for recovering by hypothecary debt to be void.

I. Every sale or alienation of any nature whatsoever, of any immovable charged with hypothec duly registered prior to such sale or alienation, after proceedings shall have been commenced for the recovery of the debt, with the payment of which such immovable is charged, shall be null and void as regards the creditor who shall have commenced such proceedings, and such creditor may proceed against the defendant in such action to the seizure and sale of such immovable as though such sale or alienation had never taken place; Provided always that in such case the purchaser of such immovable so seized may prevent the sale thereof, by tendering by his opposition and depositing in the office of the Sheriff, the amount of the debt with which such immovable is charged, including principal, interest and costs, and not otherwise, and such deposit having been so made, the Sheriff shall forthwith pay to the plaintiff and prosecuting creditor the amount of the debt including capital, interest and costs, and no such opposition shall have the effect of preventing or suspending such seizure and sale, if it be not accompanied with such tender and deposit.

Act limited to L. C.

II. This Act shall apply to Lower Canada only.



E.

# COUNTY ASSESSMENTS, C. E.

## CAP. LVI.

AN ACT TO ENABLE COUNTY MUNICIPALITIES IN LOWER CANADA TO RECOVER THE AMOUNT OF CERTAIN ASSESSMENTS.

[Assented to 4th May, 1859.]

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**W**HEREAS the Act passed in the twentieth year of Her Majesty's reign, and intituled, *An Act to amend the Judicature Acts of Lower Canada*, provides, amongst other things, for the establishment of a Circuit Court in each of the Counties of Lower Canada, (other than the Counties excepted by the Act,) and that such Circuit Court may be so held in any County, under the restrictions imposed by the said Act, as soon as the Municipality of such County shall have provided proper accommodation for the Court and its Officers, "and made permanent provision for the maintenance of such accommodation;" Whereas by the same Act there is allowed to each County Municipality the sum of three hundred pounds towards building or procuring a County Court-house at a place to be approved by the Governor; Whereas the powers conferred upon County Municipalities for raising or providing for the Recovery of any sums they may deem necessary to be added to the said three hundred pounds for the purpose of building County Court-house, are not sufficiently indicated in the Municipal Acts; Whereas certain County Municipalities have passed By-laws for the erection of such County Court-houses; And whereas certain County Municipalities have imposed assessments payable by the Local Municipalities, for purposes connected with the interests of the public or of such Counties; And whereas the Municipal Laws of Lower Canada do not adopt a prompt and easy method for the recovery of the same: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Preamble.  
20 V. c. 44, recited.

County By-law apportioning the sum to be paid by any Local Municipality, for a Court House, &c., to be binding.

1. In any County Municipality in which land has been offered for the building of a County Court-house, and accepted by the Governor as the site thereof, and in which the Council shall have ordered and directed, or shall hereafter by By-law order and direct, the building of such Court-house on the said site, and have apportioned or shall hereafter apportion the sum payable, or hereafter to be payable, by each Local Municipality for

for such purpose, such By-law shall be definitive, and the assessment so imposed shall be obligatory upon such Local Municipality, and thenceforward the sum therein mentioned shall become a debt of such Local Municipality.

Duty of the Secretary-Treasurer of the County and Local Municipality, respectively.

II. It shall be the duty of the Secretary-Treasurer of the County Municipality, immediately after the passing of any such By-law by such County Municipality, to transmit a copy thereof to the Secretary-Treasurer of each Local Municipality affected thereby, and the Secretary-Treasurer of such Local Municipality shall, within two months after the day on which he shall have received the same, or within two months after the passing of this Act, if such By-law have been passed or adopted previous to the passing of this Act, prepare a special collection roll or assessment roll, as the case may be, based upon the valuation roll for such Local Municipality, and he shall, in the usual manner, calculate and insert the several assessments payable by each contributor, and the total amount due by each person in such Local Municipality, and in case he shall fail to do so within said delay, the said Secretary-Treasurer of such Local Municipality shall be liable to a fine of not less than one hundred or more than two hundred dollars, recoverable at the suit of the County Municipality, before one or more Justices of the Peace, under an ordinary writ of summons.

Local Secretary-Treasurer to collect the sums so apportioned.

III. The Secretary-Treasurer of any Local Municipality affected by such By-law of a County Municipality, after he shall have prepared in the manner aforesaid the collection roll mentioned in the second section of this Act, shall be the collector, of the same, and it shall be his duty to raise the amount of the assessment so imposed, in the manner provided by the seventy-fourth section of the Lower Canada Municipal and Road Act of 1855: and such Secretary-Treasurer shall be bound to render an account to the County Municipality of the collection of such moneys in the manner and under the penalties and suits provided by the seventy-fourth section of the Lower Canada Municipal and Road Acts of 1855, and the Acts amending the same.

Act to apply to all assessments for County works.

IV. The Provisions of this Act shall apply to all assessments imposed by County Municipalities upon any Local Municipality, in matters relating to County interests, or for the purpose of making provision for any County works.

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CULTURE

# AGRICULTURE C. E., TO LEGALIZE.

## CAP. LVII.

AN ACT TO LEGALIZE CERTAIN PROCEEDINGS TAKEN BY AGRICULTURAL SOCIETIES IN LOWER CANADA, AND FOR OTHER PURPOSES.

[Assented to 4th May, 1859.]

**W**HEREAS certain irregularities have occurred in the election of the Officers of Agricultural Societies in Lower Canada, which took place at the period indicated by the Act twentieth Victoria, chapter forty-nine; And whereas an erroneous interpretation of the Act twentieth Victoria, chapter thirty-two, has caused certain Agricultural Societies in Lower Canada composed of more than forty persons, contributors to an amount exceeding twenty pounds currency, to be of opinion that the said Act rendered it unnecessary for them to subscribe to the declaration and form contained in Schedule A of the Act first above cited; And whereas it is expedient to extend the term limited for the organization of Agricultural Societies where such Societies have not already been organized in Lower Canada, and in consideration of the advantages which result from the proper working of the said Agricultural Societies; Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, declares and enacts as follows:

Preamble.

I. Elections of officers of Agricultural Societies which have taken place in the different counties of Lower Canada at the period enacted by the Act twentieth Victoria, chapter forty-nine, are hereby declared valid, and the said officers shall be entitled to exercise all the powers, and to discharge all the duties, conferred and enumerated by the Act last cited and by the Act twentieth Victoria, chapter thirty-two, with reference to Agricultural Societies in Lower Canada; If, however, in any County in which but one Agricultural Society ought to exist, two Societies have been organized in opposition one to the other, that Society which has been admitted by the Board of Agriculture shall be the legally organized Society, and shall enjoy all the rights and privileges conferred upon Agricultural Societies.

Elections held at the period mentioned in 20 V., c. 49, declared valid.

Proviso.

II. The said Agricultural Societies organized as aforesaid in conformity with the provisions of

Societies so organized must make the declaration under the said Act. this

this Act, shall nevertheless subscribe to the declaration in the form contained in the said Schedule A. of the said Act twentieth Victoria, chapter forty-nine; and the said declaration shall then be deemed to be subscribed to in conformity with the provisions of the Act last above cited.

Notwithstanding 20 V., c. 49, the inhabitants of a County may organize a Society and elect officers in 1859.

III. Notwithstanding the provisions of this Act twentieth Victoria, chapter forty-nine, which enacts and provides that the election of the President, Vice-President and Directors should take place within the three first weeks of the month of January, one thousand eight hundred and fifty-nine, for the current year, it shall be lawful for the inhabitants of any County in Lower Canada, upon conforming to the other provisions of the Act last above cited, to organize an Agricultural Society, and to elect the President, Vice-President and Directors, at any meeting called for that purpose by the Warden or a Justice of the Peace in the County, upon the requisition of at least three persons entitled to vote at the election of the officers aforesaid.

Who shall preside at the meeting for such election.

IV. If on the day and at the hour and place at which such meeting is to be held, the said Warden or Justice of the Peace be absent, any person selected by the majority of the persons present, and entitled to vote at such election shall preside, and shall discharge, in so far as concerns the said election and the Acts relating thereto, all the duties imposed upon the President of any such meeting.

Proceedings to be transmitted to the Board of Agriculture.

V. The proceedings at such meeting shall be transmitted to the Board of Agriculture by the person who shall have presided thereat; and if such person shall neglect or refuse to transmit a report of the said proceedings to the Board of Agriculture, whether such proceedings shall have been had since the first day of January, one thousand eight hundred and fifty-nine, or shall be had after the passing of this Act in conformity therewith, it shall be lawful for not less than three persons who shall have been present at such meeting, to draw up a *procès-verbal* setting forth the result of such meeting, and giving the names of the officers elected for such Agricultural Society, whether the same be for a County or for the Division of a County, as the case may be; And the said *procès-verbal* shall be transmitted to the Board of Agriculture, and shall be considered to be an official report of the proceedings of such meeting; if, however, it be objected that the said report is false and irregular, the Board of Agriculture shall decide the matter in dispute, and its decision shall be final.

VI. The Agricultural Societies which have transmitted reports of the proceedings at their meetings to the Board of Agriculture, and of which the proceedings have been declared to be valid by the said Board of Agriculture, are hereby legalized notwithstanding any irregularities in such proceedings.

Societies which have transmitted reports legalized notwithstanding irregularities.

VII. The Secretary-Treasurer of every Agricultural Society shall be bound to furnish security to the said Agricultural Society of which he is the Secretary-Treasurer, to the amount of two hundred pounds currency, to the satisfaction of the President and Vice-President of the said Society; and it shall not be lawful for him to receive any money from the Board or Bureau of Agriculture, without having first furnished a copy of such security to the Board of Agriculture.

Secretary-Treasurers of Societies to give security.

VIII. All counties in Lower Canada, united for purposes of representation in the Legislative Assembly, shall, for all the purposes of Agriculture be deemed separate counties, and shall enjoy all the rights and privileges conferred by the laws respecting Agriculture in force in Lower Canada upon Counties not so united.

Every County to be a County for Agricultural purposes.

IX. All returns to be made by Agricultural Societies organized in virtue of this Act, shall be made to the Board of Agriculture upon or before the first day of July next.

Returns to be made by 1st July

X. So much of the said Act twentieth Victoria, chapter thirty-two, as requires that the Agricultural Association for Lower Canada shall hold an annual Fair or Exhibition, is hereby repealed, and henceforth the said Association shall hold a Fair annually or biennially, reckoning from the date of its last Fair or Exhibition, as the Board of Agriculture for lower Canada shall deem best.

Exhibitions may be annual or biennial.

XI. In case the Board of Officers and Directors of the Agricultural Society of any County or part of a County require the Municipal Council of such County to select a central and proper place in such County or part of a County at which the show of such Society shall be held in each year thereafter, it shall be lawful for such Municipal Council at any of its General Quarterly Sessions after the first day of February, one thousand eight hundred and sixty, and it shall be the duty of such Municipal Council after that day at its first General Quarterly Session, after having

Appointment of place for holding annual shows.

been

been so required, to pass a By-law declaring its selection of such a place, and thereafter the annual show of such Agricultural Society shall always be held at such place.

Public Act—to apply only to L. C.

XII. This Act shall be a Public Act, and shall apply to Lower Canada only.

## BUILDING SOCIETIES, L. C.

### CAP. LVIII.

AN ACT TO AMEND THE LAW RESPECTING BUILDING SOCIETIES IN LOWER CANADA

[Assented to 4th May, 1859.]

Preamble.  
12 V. c. 57.

**W**HEREAS under an Act passed in the twelfth year of the Reign of Her Majesty, intituled, *An Act to encourage the establishment of Building Societies in Lower Canada*, certain Building Societies have been established called Permanent Building Societies, which have in a great measure superseded those Societies called Terminating Building Societies, and are conducted on more certain or equitable principles than the said Terminating Building Societies, by enabling persons to become members thereof at any time for investment therein, or to obtain the advance of their shares or share by giving security therefor, and to fix and determine with the said Society the time and amount which such members shall repay such advanced share or shares and obtain the release of the said security, without being liable to the contingency of losses or profits in the business of the said Society; And whereas doubts have arisen as to whether such Permanent Building Societies are within the meaning and intention of the said recited Act; And whereas it is expedient to remove such doubts and to encourage Building Societies established on the said Permanent principle: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Permanent Societies having fulfilled certain conditions, to be Societies within the said Act.

I. Any Permanent Building Society established, or hereafter to be established, under the said hereinbefore recited Act and the amending Acts thereto, and conducted on the principle hereinbefore

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fore mentioned, which shall have fulfilled and observed all the conditions necessary to be fulfilled and observed for the establishment of a Building Society under the said recited Acts, shall be and the same is hereby declared to be and to have been a Building Society within the meaning and intention of the said recited Acts, and to be and to have been entitled to all the powers, benefits and advantages of the said recited Acts; and any person or persons who shall have approved the Rules and Regulations of any such Building Society entered and recorded in a book, as in the fifth section of the said recited Act, passed in the twelfth year of Her Majesty's Reign, is required, and shall have subscribed his name as a shareholder for one or more shares, shall, from the time of such approbation and subscription, be and be deemed to have been a member or members of such Building Society: and the production of the book containing the rules for the management of such Society, kept as in the fifth section of the said Act is required, signed by such person, or by his duly authorized attorney, and duly witnessed, shall at all times and for all purposes be sufficient evidence of membership in such Building Society.

Who shall be deemed Members of such Societies.

Evidence of Membership.

II. It shall be lawful for any Permanent Building Society to alter, amend, repeal or create any Regulation, Rule or By-law for the working of the said Society at a public meeting of the members of such Society duly convened according to law and the Rules of such Society.

How permanent Societies may pass or amend their By-laws.

III. Every such Society, by its Rules, Regulations and By-laws authorized to borrow money, shall not, at any time after the passing of this Act, borrow, receive, take or retain, otherwise than in stock and shares in such Society, from any person or persons, any greater sum than three fourths of the amount of capital actually paid in on unadvanced shares and invested in real securities by such Society; and the paid in and subscribed capital of the Society shall be liable for the amount so borrowed, received or taken by any Society.

Amount to be borrowed by any such Society, limited.

IV. When any share or shares in any Society shall have been fully paid up according to the rules of the Society, or shall have become due and payable to the holder thereof, then and in such case it shall be lawful for the holder of such share or shares, either to withdraw the amount of his share or shares from the said Society, according to the rules and regulations thereof, or to invest

Holders of shares fully paid up may withdraw or invest the amount.



invest the amount of his said share or shares in the Society, and to receive therefrom, periodically, such proportion of the profits made by such Society as shall be provided for by a By-law to be passed for the purpose; and the amount of such share or shares so invested shall become fixed and permanent capital or shares in the said Society not withdrawable therefrom, but transferable in the same manner as other shares in the said Society.

Society may loan money on security of unadvanced shares, &c.

V. It shall be lawful for such Society to advance to members on the security of investing on unadvanced shares in the said Society, and to receive and take from any person or persons, or bodies corporate, any real or Personal Security of any nature or kind whatever as Collateral Security for any advance made to members of the Society.

Society may hold real property for its occupation.

VI. It shall be lawful for any Society to hold absolutely real estate for the purposes of its place of business, not exceeding the annual value of six thousand dollars.

Society not bound to see to trusts to which shares are liable,

VII. Such Society shall not be bound to see to the execution of any trust, whether expressed, implied or constructive, to which any share or shares of its stock shall be subject; and the receipt of the party in whose name any such share or shares shall stand in the books of the Society, or if such share or shares shall stand in the name of more parties than one, the receipt of one of the parties shall, from time to time, be a sufficient discharge to the Society for any payment of any kind made in respect of such share or shares, notwithstanding any trust to which such shares may then be subject, and whether or not such Society shall have had notice of such trust; and the Society shall not be bound to see to the application of the money paid upon such receipt, any law or usage to the contrary notwithstanding.

What receipts shall be sufficient.

## MUTUAL FIRE INSURANCE COMPANIES, L.C.

### CAP. LIX.

AN ACT TO AMEND THE ACTS AUTHORIZING THE ESTABLISHMENT OF MUTUAL FIRE INSURANCE COMPANIES IN LOWER CANADA.

[Assented to 4th May, 1859.]

Preamble.

WHEREAS it is expedient to amend the Act of Lower Canada, passed in the fourth year



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ESTABLISHMENT VER CANADA.

May, 1859.] amend the Act in the fourth year

22 Vict. LANDLORD'S WARRANT TO DISTRAIN. Cap. 59, 1859.

year of the Reign of His late Majesty King William the Fourth, intituled, *An Act to authorize the estab- 4 W. 4, c. 33* *lishment of Mutual Fire Insurance Companies*, and the Acts amending the same: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

I. The freeholders and other persons residing in the City of Montreal may establish a Mutual Fire Insurance Company, for insuring property situated within the limits of the said City, and elsewhere, under the name of "The Mutual Fire Insurance Company of the City of Montreal," and all the provisions of the said Act fourth William the Fourth, chapter thirty-three, and of the Acts amending the said Act, in so far as they are not inconsistent with this Act, shall apply to the said Company. Company may be formed in the City of Montreal.

II. It shall be lawful for the Directors of the said Company to declare during the year, and whenever it shall be necessary, the amount of assessment to be paid by the parties insured, to meet the expenses and losses of the said Company. Assessments for for paying losses may be declared at any time during the year.

III. The annual meetings for the election of Directors of the said Company, shall be held on the second Monday in October, in each year, or on the following day if such second Monday be a holiday, and at an hour to be fixed by the Directors. Annual meetings of Company.

LANDLORD'S WARRANT TO DISTRAIN.

To Mr. John Holdfast, my Bailiff, greeting:—Distrain the goods and chattels of David Smith in the house he now dwells in, (or upon the farm he now occupies, *as the case may be*), situate at \_\_\_\_\_, in the County of, for \$75 <sup>50</sup>/<sub>100</sub>, being the amount of six months' rent due to me for the same, on the \_\_\_\_\_ day of \_\_\_\_\_ last; and for your so doing, this shall be your sufficient warrant and authority.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 1859.  
PETER JONES.

SCHEDULE OF COSTS FOR SMALL RENTS AND PENALTIES.

For levying distress under £10 5s.  
For man keeping possession per *diem* (or day) 3s. 9d., cy.  
Appraisements, whether there be one appraiser or more, the sum of 4d. cy. on the pound on the value of the goods.

## INVENTORY OF GOODS DISTRAINED, &c.

If any printed advertisement, not to exceed in all 5s. 6d. Catalogues, sale and commission, and delivery of goods, one shilling in the pound on the net proceeds of the sale. By the 4 & 5 Vic., cap. 25, the stealing of any chattels or fixtures by the tenant is made felony.

## INVENTORY OF GOODS DISTRAINED.

An inventory of the several goods and chattels distrained by me, whose name is hereunder written, the \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, in the house, out-houses, and lands of \_\_\_\_\_, in \_\_\_\_\_, by the authority, and on the behalf of \_\_\_\_\_, of \_\_\_\_\_, for \_\_\_\_\_ pounds, arrears of rent due to him the said \_\_\_\_\_ In the dwelling house, one black walnut hair sofa with springs, six black walnut cane-seat chairs, and one box stove. On the farm, one horse, two cows and six sheep, &c.

## NOTICE OF DISTRESS.

Mr. \_\_\_\_\_ Take notice that by the authority, and on the behalf of your landlord, \_\_\_\_\_, I have this \_\_\_\_\_ day of \_\_\_\_\_ in the year of our Lord \_\_\_\_\_, distrained the several goods and chattels specified in the schedule hereunto annexed in your house, outhouses and grounds, at \_\_\_\_\_, for £ \_\_\_\_\_, arrears of rent due to him the said \_\_\_\_\_; and if you shall not pay the said rent so due and in arrear as aforesaid, or replevy the said goods and chattels, I shall, after the expiration of five days from the date hereof, cause the said goods and chattels to be appraised and sold, according to the statute in that case made and provided.

Given under my hand, the day and year first above written.

A. B.

N.B. A true copy of the above must be served on, or left at the residence of the tenant in presence of a witness.

## APPRAISER'S OATH.

You, and each of you, shall well and truly appraise the goods and chattels mentioned in the inventory, according to the best of your understanding. So help you God.

## FORM OF APPRAISEMENT.

The appraisement (*should name articles*) may be in the form of an inventory, specifying the particulars, and their respective valuations; and then add at the end "appraised by us, this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_"

**PETER PIPER,  
JOHN WOOD,**

*Sworn appraisers.*

ED, &C.

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