

Technical and Bibliographic Notes / Notes techniques et bibliographiques

The Institute has attempted to obtain the best original copy available for filming. Features of this copy which may be bibliographically unique, which may alter any of the images in the reproduction, or which may significantly change the usual method of filming are checked below.

- Coloured covers / Couverture de couleur
- Covers damaged / Couverture endommagée
- Covers restored and/or laminated / Couverture restaurée et/ou pelliculée
- Cover title missing / Le titre de couverture manque
- Coloured maps / Cartes géographiques en couleur
- Coloured ink (i.e. other than blue or black) / Encre de couleur (i.e. autre que bleue ou noire)
- Coloured plates and/or illustrations / Planches et/ou illustrations en couleur
- Bound with other material / Relié avec d'autres documents
- Only edition available / Seule édition disponible
- Tight binding may cause shadows or distortion along interior margin / La reliure serrée peut causer de l'ombre ou de la distorsion le long de la marge intérieure.
- Blank leaves added during restorations may appear within the text. Whenever possible, these have been omitted from filming / Il se peut que certaines pages blanches ajoutées lors d'une restauration apparaissent dans le texte, mais, lorsque cela était possible, ces pages n'ont pas été filmées.
- Additional comments / Commentaires supplémentaires:

L'Institut a microfilmé le meilleur exemplaire qu'il lui a été possible de se procurer. Les détails de cet exemplaire qui sont peut-être uniques du point de vue bibliographique, qui peuvent modifier une image reproduite, ou qui peuvent exiger une modification dans la méthode normale de filmage sont indiqués ci-dessous.

- Coloured pages / Pages de couleur
- Pages damaged / Pages endommagées
- Pages restored and/or laminated / Pages restaurées et/ou pelliculées
- Pages discoloured, stained or foxed / Pages décolorées, tachetées ou piquées
- Pages detached / Pages détachées
- Showthrough / Transparence
- Quality of print varies / Qualité inégale de l'impression
- Includes supplementary material / Comprend du matériel supplémentaire
- Pages wholly or partially obscured by errata slips, tissues, etc., have been refilmed to ensure the best possible image / Les pages totalement ou partiellement obscurcies par un feuillet d'errata, une pelure, etc., ont été filmées à nouveau de façon à obtenir la meilleure image possible.
- Opposing pages with varying colouration or discolourations are filmed twice to ensure the best possible image / Les pages s'opposant ayant des colorations variables ou des décolorations sont filmées deux fois afin d'obtenir la meilleure image possible.

This item is filmed at the reduction ratio checked below /
Ce document est filmé au taux de réduction indiqué ci-dessous.

10x		14x		18x		22x		26x		30x	
										<input checked="" type="checkbox"/>	
	12x		16x		20x		24x		28x		32x

L A W S

OF

His Majesty's Province

OF

UPPER-CANADA,

IN

NORTH-AMERICA,

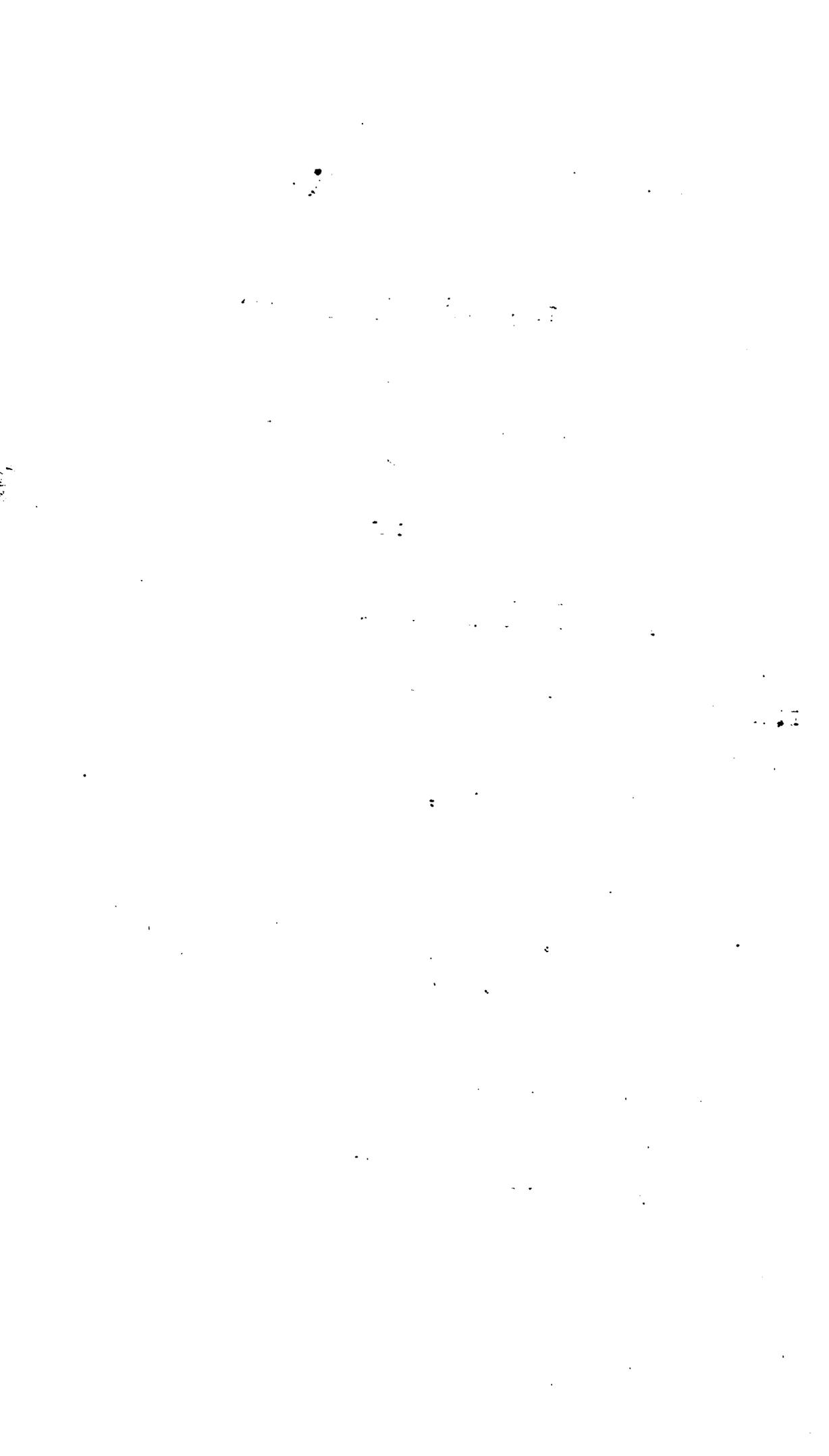
ENACTED IN THE FIRST SESSION OF THE SECOND PARLIAMENT,
IN THE YEAR OF OUR LORD ONE THOUSAND SEVEN HUN-
DRED AND NINETY-SEVEN, AND OF HIS MAJESTY'S
REIGN THE THIRTY-SEVENTH.



WEST-NIAGARA:

PRINTED BY THUS G. SIMONS, PRINTER TO THE KING'S MOST EXCELLENT MAJESTY.

MDCCXCVII.



L A W S

OF HIS MAJESTY'S PROVINCE OF

U P P E R - C A N A D A :

PASSED IN THE FIRST SESSION OF THE SECOND PROVINCIAL PARLIAMENT OF UPPER CANADA, MET AT YORK, ON THE FIRST DAY OF JUNE, IN THE THIRTY-SEVENTH YEAR OF THE REIGN OF OUR SOVEREIGN LORD GEORGE THE THIRD, AND PROROGUED ON THE THIRD DAY OF JULY, FOLLOWING.

1797

C H A P. I.

416

An ACT for the better securing of the Province against the King's Enemies.

WHEREAS the laws now in force against alien enemies, may not prove sufficient to secure the tranquility of the province, Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the legislative council and assembly of the province of Upper-Canada, constituted and assembled by virtue of, and under the authority of an act passed in the parliament of Great-Britain, entitled "An act to repeal certain parts of an act passed in the fourteenth year of his Majesty's reign, entitled "An act for making more effectual provision for the government of the province of Quebec in North-America, and to make further provision for the government of the said province," and by the authority of the same, That from and after the passing of this act, no person of whatever name, character, or description, being an inhabitant, subject or citizen of, or owing, or professing to owe allegiance to any country, kingdom, state or commonwealth now at war against our sovereign lord the King, or who shall have been an inhabitant, subject or citizen of, or owing allegiance to any such country, kingdom, state or commonwealth within the space of seven years preceding the passing of this act, except as herein after excepted,

1797

Preamble.

Persons with-
in the act.

shall be permitted to enter, remain, reside or dwell in any part of this province, under the pains and penalties herein after expressed.

Duty of justices respecting such.

II. *And be it further enacted*, That if any person from and after the passing of this act, of whatever character or description, being an inhabitant, subject or citizen of, or owing, or professing to owe allegiance to any country, kingdom, state or commonwealth, now at war against our sovereign lord the King, or who shall have been an inhabitant, subject or citizen of, or owing allegiance to any such country, kingdom, state or commonwealth within the space of seven years preceding the passing of this act (except as hereafter excepted) shall enter, remain, reside, dwell or be found in any part of this province, it shall and may be lawful for any of his majesty's justices of the peace to issue his warrant for the apprehension of such person; and upon a due examination of, and finding him to fall within the description, intent and meaning of this act, to order him to leave the province within four-and-twenty hours: and in case he shall be found within the limits of this province after that time, it shall and may be lawful to and for any person, with or without warrant, to seize and carry him before any of his Majesty's justices of the peace, who shall commit him to the common gaol of the district, county or place where he shall be so found after the expiration of the time aforesaid, for the space of one month, at the end of which time he shall be again required and ordered by any of his Majesty's justices of the peace, to leave this province within the space of twenty-four hours; and in case he shall again be found within the limits thereof, at the expiration of that time, he shall, upon conviction thereof, before any commission of oyer and terminer, be deemed and adjudged a felon, and shall suffer death without benefit of clergy.

Exception.

III. *Provided always*, That this act shall not extend, or be construed to extend to any person having leave, license or authority from the governor, lieutenant-governor or person administering the government of this province, under his hand and seal, to enter, remain, reside or dwell in any part of the said province.

No person to entertain such alien enemy.

IV. *And be it further enacted*, That if any person now living and residing, or hereafter living and residing, during the continuance of this act, within the province shall knowingly receive, entertain, protect, countenance, support or encourage any person of whatever name, description, or character, being an inhabitant, subject or citizen of, or owing allegiance to, or professing to owe allegiance to any country, kingdom, state or commonwealth, or who shall have been an inhabitant, subject or citizen of, or owing allegiance to any country, kingdom, state or commonwealth within the space of seven years preceding the passing of this act, now at war against our sovereign lord the King, to enter, remain, reside or dwell in any part of this province, except as before excepted, and shall be duly convicted thereof in any of his Majesty's courts of record in this province, by indictment or information, he shall be deemed guilty of an high misdemeanor, and subject to the pains and penalties in all cases of misdemeanor imposed and inflicted.

Penalty.

Subject's authority and duty in the case of suspected persons.

V. *And be it further enacted*, That it shall and may be lawful to and for any of his Majesty's subjects, having reasonable cause to suspect a person of being an inhabitant, subject or citizen of, or owing, or professing to owe allegiance to any country, kingdom, state or commonwealth, or who shall have been an inhabitant, subject or citizen of, or owing allegiance to any country, kingdom, state or commonwealth, within the space of seven years preceding the passing of this act, now at war against our sovereign lord the King, peaceably to

demand, and he is hereby required to demand of such person his certificate of permission, leave, license or authority to enter into, remain, reside or dwell in the place where such person shall then and there be, being in the said province; and if upon such demand the person so suspected shall not produce and shew to the subject demanding the leave, license or authority that he may have under the hand and seal of the governor, lieutenant-governor or person administering the government, or certificate of permission as aforesaid, he shall forthwith cause his suspicion to be made known upon oath to the nearest magistrate, who shall issue his warrant for the apprehension of the person suspected, to be dealt with as herein before provided.

VI. *And be it further enacted,* That this act shall be openly read in court by the clerk of the peace or his deputy, on the first day of every session to be held in each and every district of this province, during the continuance thereof. And that the said act, and the provisions therein contained shall remain, continue and be in force for and during the space of two years, and no longer.

This act to be publicly read.

Limitation of this act.

No 57.
C H A P. II.

An ACT to enable the inhabitants of the township of York, to assemble for the purpose of choosing and nominating Parish and Town Officers.

WHEREAS by an act passed in the thirty-third year of his Majesty's reign, entitled "An act to provide for the nomination and appointment of parish and town officers," the inhabitants of any parish, township, reputed township or place, can only be assembled on the first Monday in the month of March in every year: and whereas it is expedient that in the township of York, the inhabitants should be immediately assembled for the purposes mentioned in the said act, Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the legislative council and assembly of the province of Upper-Canada, constituted and assembled by virtue of, and under the authority of an act passed in the parliament of Great-Britain, entitled "An act to repeal certain parts of an act passed in the fourteenth year of his Majesty's reign, entitled "An act for making more effectual provision for the government of the province of Quebec in North America, and to make further provision for the government of the said province," and by the authority of the same, That the inhabitants of the said township shall be called together as soon after the passing of this act as convenient, in the same manner and for the same purposes as are directed by the said recited act, and any two of his Majesty's justices are hereby empowered to appoint one or more constable or constables as they shall think fit, to serve in the said township.

No 52

C H A P. III.

An ACT for securing the Titles to Lands in this province.

Preamble

WHEREAS many persons are possessed of lands in this province under land-board certificates, and otherwise, by authority of his Majesty's government, and now hold, or claim to hold the same, either as the original nominees, or as the heirs, devisees or assignees of the original nominees thereof, of which lands no grants have as yet issued under the great seal of this province, whereby the legal estate and interest thereof is still vested in his Majesty: for the securing of all such persons in the ownership and possession of such lands, Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the legislative council and assembly of the province of Upper-Canada, constituted and assembled by virtue of, and under the authority of an act passed in the parliament of Great-Britain, entitled "An act to repeal certain parts of an act passed in the fourteenth year of his Majesty's reign, entitled "An act for making more effectual provision for the government of the province of Quebec in North America, and to make further provision for the government of the said province," and by the authority of the same; That it shall and may be lawful to and for the governor, lieutenant-governor or person administering the government of this province, at any time during the space of three years from the passing of this act, to issue such, and so many commissions under the great seal of this province, for the Eastern, Midland and Western districts, and also for the county of Lincoln in the Home district, as he shall think proper, to three or more persons whereof, his Majesty's chief justice of this province, or one of the justices of the court of King's bench shall be one; which commissioners shall have power and authority in their respective districts, to hear and determine all applications that shall or may be made to them by persons holding, or claiming to hold lands as aforesaid, for grants thereof under the great seal of this province, in like manner as the same might be heard and determined by his Majesty's executive council.

Governor, &c.
to appoint
commissioners.

Their authority.

How persons
claiming may
appear.

The commissi-
oners may com-
pel attendance
and the produc-
tion of papers.

How they shall
be guided:

II. *And be it further enacted by the authority aforesaid* That it shall and may be lawful to and for the persons so holding, or claiming to hold as aforesaid, to come before the said commissioners either in person or by their agents; constituted and appointed under their hands and seals, and to produce to the said commissioners the several documents, vouchers and other evidences on which they severally found their said claims; and the said commissioners, or any two of them, whereof the said chief justice, or justice of the court of King's bench shall be one, shall proceed to hear, decide and report thereon in manner herein after mentioned; and shall for that purpose have full power and authority to administer such oaths, and also by warrant under their hands, or the hand of one of them, compel the attendance of all such persons; and also the production of all such books, papers and other evidences as they in their discretion shall think necessary or proper.

III. *And be it further enacted by the authority aforesaid,* That in hearing and deciding on all such claims, whether the same be between subject and subject, or between the subject and

PASSED IN THE FIRST SESSION OF THE SECOND PARLIAMENT.

the crown, the said commissioners shall be guided by the real justice and good conscience of the case, without regard to legal forms and solemnities, and shall direct themselves by the best evidence that they can procure, or that is laid before them, whether the same be such evidence as the law would require in other cases or not; and in case they or the major part of them shall be satisfied, that the person or persons so holding, or claiming to hold the said lands as aforesaid, is or are entitled in equity and good conscience to hold the same, either as the original nominee or nominees thereof, or as the heir or heirs, devisee or devisees, or bona fide assignee or assignees of such original nominee or nominees, or by any other derivative title from such original nominee or nominees; the validity of which derivative title shall be judged of in like manner, they, the said commissioners, shall report the same in manner herein after mentioned.

IV. *Provided nevertheless, and be it hereby further enacted by the authority aforesaid,* That the said commissioners shall not proceed to examine any such claim as aforesaid, unless they shall have caused notice in writing of their intention to proceed upon the business of their said commission, to be fixed up in some conspicuous part of the office of the clerk of the peace, and at three other the most public places of each district respectively, at least one month before they shall begin to act therein; and also, unless notice of such claim, and of the name of the claimant, and also a description of the lands, in respect of which such claim is made, shall be fixed up in some conspicuous part of the said office, at least fifteen days before the same shall come on to be heard.

V. *Provided further, and be it hereby enacted by the authority aforesaid,* That it shall and may be lawful to, and for all persons interested, or claiming to be interested in such lands as aforesaid, to file caveats in the said office of the clerk of the peace, against the hearing of any such claim or claims as aforesaid, but in their presence; or in the presence of their agents properly constituted under their hands and seals; and also to attend in person, or by their said agent, when the said claim shall be brought forward, and to be heard against the same; but such caveat shall not retard the hearing of the said claim or claims, beyond fifteen days from the day on which the same shall have been entered in the office of the said clerk of the peace, unless it shall appear to the said commissioners that the real justice of the case requires that the same shall be deferred, in which case it shall and may be lawful for them to defer the same.

VI. *And be it further enacted by the authority aforesaid,* That the said commissioners shall from time to time transmit to the clerk of the executive council of this province, a report of all such claims as they shall have examined and decided on, and the person or persons in whose favor they shall have reported, shall be considered as entitled to have a grant or grants under the great seal of this province, of the lands in respect of which such report shall be made, and the same shall issue to such person or persons, or his or their heir or heirs accordingly.

VII. *Provided nevertheless, and be it hereby further enacted by the authority aforesaid,* That it shall and may be lawful to and for any person or persons who shall conceive him or themselves to be aggrieved by the decision of the said commissioners, to appeal therefrom to his Majesty's executive council.

Commissioners to give one month's notice

Claimants to give 15 days notice.

Persons interested may file caveats against such hearing, but in their presence.

Such caveats not to retard beyond 15 days except, &c.

Commissioners to report to the clerk of the executive council, and grants to issue accordingly.

Persons aggrieved may appeal.

Appellant to give notice &c and security.

VIII. *Provided furthermore*, That no such appeal shall be received by the said executive council, unless the appellant shall give notice to the said commissioners of his intention to appear within three days from the making of such decision; and shall also at the same time give security to the satisfaction of the said commissioners, that he will prosecute his said appeal with effect, or in default thereof will pay such costs to the person or persons in whose favor such report shall have been made, as the said council in its discretion shall award.

In case of mortgage, &c. the commissioners to certify the same.

IX. *And be it further enacted by the authority aforesaid*, That in case it shall appear to the said commissioners that the said lands, or any part of them, in respect of which a deed or deeds shall be claimed, are really and bona fide subject to any mortgage or other contract theretofore made, it shall and may be lawful to and for the said commissioners, on application for that purpose by the person or persons entitled to, or interested in such mortgage or other contract, to certify that the said lands, or any part of them, are so subject as aforesaid; and it shall and may be lawful to and for the person or persons so entitled and interested, on producing the certificate of the said commissioners to the register of the county or riding in which such lands shall be, to cause the same to be enregistered, and the said register is hereby required and authorized to enregister the same in like manner, and in the same order, and priority, and subject to the like rules and restrictions; and such enregistration shall have the like force and effect as if grants under the great seal had theretofore issued of such lands at the time or times when such mortgage, mortgages or other contracts were made.

The register to enregister the same.

Judgments let in.

X. *And be it further enacted by the authority aforesaid*, That all judgments which would have bound the said lands, or any part of them, in case grants under the great seal had theretofore issued thereof before such judgments were had, shall be let in to and have the same force and effect upon the said lands as they would in such case have had, any law to the contrary notwithstanding.

Clerk of the peace, clerk of the commission

XI. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful to and for the clerk of the peace, who is hereby authorized and empowered to act as clerk to the said commission, to demand and receive to and from the several persons who shall apply to him for any of the purposes of this act, the following

F E E S :---

Fees.	£.	s.	d.
For receiving, fixing up in his office, and setting down for hearing any claim for a grant, and also for making up a report respecting the same	0	2	6
For receiving and setting down for hearing any caveat	0	2	6
For a copy of the order respecting each claim respectively	0	2	6
For receiving and transmitting to the clerk of the executive council any notice of appeal	0	5	0

7253

40

C H A P. IV.

An ACT for regulating the Practice of the Court of King's Bench.

FOR the more easy and convenient administration of justice by the court of King's bench,
 Be it enacted by the King's most excellent Majesty, by and with the advice and
 consent of the legislative council and assembly of the province of Upper-Canada,
 constituted and assembled by virtue of, and under the authority of an act passed in the parli-
 ament of Great-Britain, entitled " An act to repeal certain parts of an act passed in the four-
 teenth year of his Majesty's reign, entitled " An act for making more effectual provision for
 the government of the province of Quebec in North-America, and to make further provision
 for the government of the said province," and by the authority of the same, That from and
 after the first day of October next, it shall and may be lawful to and for the clerk of the
 crown and pleas of this province to have, and he is hereby required to have in each and every
 district of the same, and also in the town of Newark, in the county of Lincoln, in the Home
 district, an office in which actions in the said court of King's bench may be instituted, and
 the parties plead to issue in like manner as is now done in the office of the said clerk, in the
 district in which the said court is holden; and that for that purpose the said clerk be, and he
 hereby is authorized and required to supply his deputy in each district, and also in the said
 town of Newark, from time to time, with blank writs of the said court, properly signed and
 sealed, which his said deputy is hereby authorized and required to fill up as occasion may
 require.

Preamble.

The clerk of the crown and pleas to keep an office in each district.

II. AND whereas many and great inconveniences have followed from the length of time
 which by the present practice of the said court must intervene between the teste and the re-
 turn of writs, Be it enacted by the authority aforesaid, That from and after the day aforesaid,
 every Monday in the course of the year, except Easter Monday, and Christmas-day, in case it
 shall happen on a Monday, shall be a return-day for the return of writs issuing out of the said
 court of King's bench, and no other day or days whatsoever be the return-day or days for such
 writs; and that no less than fifteen days shall intervene between the teste and return of any
 process issuing out of the said court in any district of this province.

Every Monday, except &c. to be return-day.

Time between the teste and return.

III. And be it further enacted by the authority aforesaid, That from and after the day aforesaid,
 Hilary term shall begin on the first Monday in the month of January, and end on the Satur-
 day of the week ensuing; and that Easter term shall begin on the first Monday of the month
 of April, and end on the Saturday of the week ensuing; and that Trinity term shall begin on
 the first Monday of the month of July, and end on the Saturday of the week ensuing, and
 that Michaelmas term shall begin on the first Monday of the month of November, and end on
 the Saturday of the week ensuing; and that all commissions of assize and nisi prius do issue,
 and also that the fittings for the Home district be held in the vacations between Hilary and
 Easter terms, and between Trinity and Michaelmas terms, any law or usage to the contrary
 notwithstanding.

Terms.

Assizes and fittings.

Original pro-
cess, what &c.

IV. *And be it further enacted by the authority aforesaid, That in cases which do not require special bail the first and original process of the said court shall be by writ of summons, which may be in the following*

F O R M :---

Form.

UPPER-CANADA,
DISTRICT
To wit.

} GEORGE the third, by the grace of God of Great-Britain, France and
Ireland, king, defender of the faith, and so forth : To the sheriff of the
district, Greeting :

WE command you that you summon A. B. to appear either in person or by his attorney before us in our court of our bench, on the day of now next ensuing, to answer the complaint of C. D. in a plea of (as the case may be) according to the annexed declaration ; and herein fail not at your peril. Witness the honorable E. F. chief justice of our said province (or one of the justices of our said court, as the case may be) this day of in the year of our reign.

How to be ser-
ved, and fees.

AND that the plaintiff do cause the defendant to be served with the said writ of summons : any that the sum of five shillings, and no more, be allowed in costs for serving the same, but that there be no allowance whatever for milages.

In suits, where
defendant is
not holden to
bail, the ordi-
nary course
what.

V. AND whereas doubts have arisen with respect to the time when judgment may be signed for want of the defendant in any action having duly appeared thereto, Be it therefore enacted by the authority aforesaid, that in all civil suits where the defendant shall not be holden to bail, the ordinary course of proceeding shall be by serving, or causing the defendant or defendants personally to be served with a copy of the process and declaration by some literate person, and if such defendant or defendants shall not appear at the return of the process, or within eight days after such return, in such case it shall and may be lawful for the plaintiff, or plaintiffs, upon affidavit being made and filed of the personal service of such process and declaration, which affidavit shall be filed gratis, to enter a common appearance for the defendant or defendants, and to proceed thereon as if such defendant or defendants had entered his, her, or their appearance.

Of dilatory
pleas.

VI. *And be it further enacted by the authority aforesaid, That wherever the defendant in any action shall, in term time, plead any dilatory plea, in case such plea shall be of a matter of law, and not of fact, it shall and may be lawful to and for the plaintiff in the said action to set down such plea for argument on the next day on which the said court shall sit, or on any other day in the term, giving two days notice thereof to the defendant, or his attorney ; and in case such plea be filed in the time of vacation, or being filed in term time, the said plaintiff shall neglect so to set down the same for argument as aforesaid, it shall and may be lawful to and for the said plaintiff to apply to any judge of the said court to hear and determine the issue joined thereon in like manner as the same may now be done in open court ; and in case the said judge shall give judgment for the plaintiff, he the said judge shall by an order under his hand direct the said plea to be taken off the file, with costs to be taxed by the proper officer : and the said defendant shall within four days from the date of such order plead an issuable plea, and shall rejoin gratis, and shall also be bound to go to trial at such time as he would have been bound to go to trial in case he had pleaded such issuable plea in the first instance, and not such dilatory plea.*

VII. *And be it further enacted by the authority aforesaid,* That from and after the day aforesaid, no writ of enquiry shall issue to the sheriff in cases where judgment shall have gone by default; but in all such cases the damages shall be ascertained at the same time and in like manner as if the parties had pleaded to issue, and that an entry thereof be made on the roll accordingly.

No writ of enquiry in cases of judgment by default.

Damages when and how ascertained.

VIII. *And be it further enacted by the authority aforesaid,* That from and after the passing of this act, every juror shall be allowed the sum of fifteen pence, instead of the sum of one shilling which is now allowed in each cause in which he shall be sworn as such juror, to be paid to him in like manner as the said sum of one shilling is now paid.

Juror's fees.

MS 4
C H A P. V.

An ACT for the further regulation of the Militia of this province.

FOR the further regulation of the militia of this province, Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the legislative council and assembly of the province of Upper-Canada, constituted and assembled by virtue of, and under the authority of an act passed in the parliament of Great-Britain, entitled "An act to repeal certain parts of an act passed in the fourteenth year of his Majesty's reign, entitled "An act for making more effectual provision for the government of the province of Quebec in North America, and to make further provision for the government of the said province," and by the authority of the same, That every militia man who shall refuse to obey the lawful orders of his superior officer or officers, when employed on militia duty, or who shall quarrel with, or insult by abusive words or otherwise, any officer or non-commissioned officer, being in the execution of his duty, shall, for every such offence, forfeit and pay a sum of money not exceeding two pounds, nor less than five shillings current money of this province, at the discretion of the justice or justices imposing such fine, and according to the nature of the offence.

Preamble.

Penalty for refusing obedience to, or abusing superior officers.

II. *And be it further enacted by the authority aforesaid,* That every person who now is enrolled in any regiment, battalion, or independent company of militia, shall within six months after the passing of this act, and every person who shall hereafter be enrolled of any regiment, battalion, or independent company of militia, shall, within six months after such enrollment provide himself with a good and sufficient musket, fuzil, rifle or gun, with at least six rounds of powder and ball, and shall come provided with the same at each and every time when he shall be called out either for the purpose of review, exercise or actual service; and in case any person so enrolled shall refuse or neglect so to provide himself, or to come so provided as aforesaid, he shall for each offence be liable to a penalty of twenty shillings, to be levied in manner herein after mentioned. *Provided always,* That when and so often any militia man shall make it appear to his captain, or officer commanding the company that it has not been possible for him to procure such musket, fuzee, rifle, or gun, it shall and may be lawful

Every person enrolled, when and how to be provided. *MS 4*

Penalty for neglects. *MS 4*

Exception.

for such captain, or officer commanding such company, to admit of such excuse, and to certify the same in writing accordingly, in which case such militia man shall not be liable to pay the said fine of twenty shillings.

Penalty for withdrawing from review, &c.

III. *And be it further enacted by the authority aforesaid,* That no person enrolled in the militia shall absent or withdraw himself from any place of review or exercise without having first obtained leave of his commanding officer so to do, under the penalty of forty shillings, if a commissioned officer, and ten shillings if a non-commissioned officer or private.

Penalty for serjeant's refusal or neglect to warn.

IV. *And be it further enacted by the authority aforesaid,* That if any serjeant of the militia when thereunto required by his superior and proper officer, shall neglect or refuse to warn the militia men of the company to which he belongs, to appear when required by his captain or next commanding officer, he shall for every such neglect or refusal, forfeit and pay the sum of forty shillings.

Serjeants exempt from serving as constables.

V. *And be it further enacted by the authority aforesaid,* That every serjeant of the militia duly appointed, shall be exempted from serving as a constable for and during such time as he shall hold such appointment of serjeant.

General meeting, when.

VI. *And be it further enacted by the authority aforesaid.* That on the fourth day of June, in each and every year, respectively, or in case it shall happen on a Sunday, then on the next day, and oftener if thereunto required, there shall be a general meeting and review of the several battalions of militia in each and every district of this province, at which time the

Captain, &c. to make returns.

captain, or officer commanding each company, shall give to his colonel, or in his absence, to the next senior officer, fair written rolls of their respective companies, which colonels, or other commanding officers, shall transmit the same to the lieutenant, or deputy-lieutenant, or in his or their absence, to the lieutenant-governor or person administering the government, under the penalty of five pounds for each captain, or other officer as aforesaid, who shall neglect or refuse so to do.

Penalty for neglect.

No allowance to the adjutant-general.

VII. *And be it further enacted by the authority aforesaid,* That no provincial allowance shall be made to the adjutant-general of the militia, any law to the contrary notwithstanding.

Persons disabled how provided for.

VIII. *And be it further enacted by the authority aforesaid,* That if any person be wounded, and shall be disabled upon any invasion, insurrection, or rebellion, he shall be taken care of, and provided for by the public, during the time of such disability.

24 clause of former act repealed.

IX. *And be it further enacted by the authority aforesaid,* That the twenty-fourth clause of an act of the legislature of this province, entitled "An act for the better regulation of the militia in this province" be, and the same is hereby repealed.

Fines, &c. how to be recovered and applied.

X. *And be it further enacted by the authority aforesaid,* That the fines, forfeitures and penalties by the said act imposed, or by this act imposed, shall be sued for and recovered by, and upon the oath of any one credible witness before any two of his Majesty's justices of the peace, and within two months after such conviction and recovery shall be transmitted by the justices before whom such information shall be laid, to the lieutenant, or in case there be no lieutenant, or that he be absent, to the deputy-lieutenant of the county where the offence

X. No 9. § 11
(a) No 9. § 24. No 2. authorizing imprisonment

ceive for fines, forfeitures, or penalties, or otherwise, by virtue of this act, or of any other act of the legislature of this province which relates to the militia, to provide for the regiments in their respective counties or ridings, drums, fifes, colours, banners, regimental books, and for the discharge of other incidental expences; and in case any overplus of such monies shall remain in the hands of any such lieutenant, or deputy-lieutenant, after providing such articles as aforesaid, such surplus shall be disposed of in premiums to the persons who shall make the best shot at a target or mark, upon days of training, and in such proportions as at a meeting of the lieutenantancy, or deputy-lieutenantancy, shall be directed; and each lieutenant, or deputy-lieutenant, shall render a certified account thereof in detail, to be transmitted to the lieutenant-governor, or person administering the government, as soon after the thirty-first day of December, annually, as practicable.

XI. *And be it further enacted by the authority aforesaid,* That upon pressing and urgent occasions, in the time of war or insurrection, it shall and may be lawful for the lieutenant-governor, or person administering the government, to march such part of the militia of this province as he shall think proper, to the assistance of the province of Lower-Canada.

Militia may be marched to the assistance of Lower-Canada

~~XXXX~~
C H A P. VI.

An ACT to extend the Jurisdiction, and regulate the proceedings of the District Court, and Court of Requests.

BE it enacted by the king's most excellent majesty, by and with the advice and consent of the legislative council and assembly of the province of Upper-Canada, constituted and assembled by virtue of, and under the authority of an act passed in the parliament of Great-Britain, entitled "An act to repeal certain parts of an act passed in the fourteenth year of his majesty's reign, entitled, "An act for making more effectual provision for the government of the province of Quebec in North America, and to make further provision for the government of the said province," and by the authority of the same, That the jurisdiction of the several courts constituted and appointed under, and by virtue of a certain act passed in the thirty-fourth year of his majesty's reign, entitled "An act to establish a court for the cognizance of small causes in each and every district of this province," shall be extended from the sum of fifteen, to the sum of forty pounds lawful money of this province, in such actions of contract only as relate to mere matters of debt, and are brought for the sole purpose of recovering some sum, or sums of money, the amount of which is already liquidated, or ascertained, either by the nature of the transaction itself, or by the act of the parties, and not for any other purpose or intent whatever.

Preamble.

Jurisdiction of the court for trial of small causes extended from 15l. to 40l. in actions of debt where the amount is ascertained &c

II. *And be it further enacted by the authority aforesaid,* That the said court shall have cogni-

May have cog-

nizance of questions of property in personal chattels, & award in matters of trespass to the amount 15l except &c.

The jurisdiction on not to extend to certain actions, nor to effect the jurisdiction of K.B.

Fees.

No writ of enquiry to issue on judgment by default: amount how to be ascertained

Fees for service.

Affidavit of service before whom to be made.

Justices of assize and nisi prius in their circuit may act as visitors.

zance of all questions of property in personal chattels, where the value of the thing claimed does not exceed the sum of fifteen pounds; and shall also award damages to the like amount; in all matters of trespass; where the title to land does not come in question, and where future rights will not be bound by the decision of the said court.

III. *Provided nevertheless*, That nothing herein contained shall be taken, or construed to extend the jurisdiction of the said court to actions in the nature of actions of assault and battery, or false imprisonment, or in any wise to affect the jurisdiction of the court of king's bench.

IV. *And be it further enacted by the authority aforesaid*, That no person whatsoever shall claim, or be entitled to any other or greater fee for any business done by him in the said court either as attorney, sheriff, clerk, crier, or judge, than is set down for him in the said act; or any fee for any other business done by him in the said court, other than the business which is prescribed and directed by the said act, nor shall any such fee be allowed in any bill of costs.

V. *And be it further enacted by the authority aforesaid*, That where judgment shall be by default no writ of enquiry shall issue to the sheriff; but the amount of the debt shall be ascertained at the same time, and in the same manner as the same would or might have been ascertained in case the defendant had appeared to the declaration, or summons, which are hereby declared to be one and the same, and not several or distinct proceedings in the said court.

VI. *And be it further enacted by the authority aforesaid*, That the sum of two shillings and six pence shall be allowed for the service of the said declaration, or summons; but that no mileage whatever be allowed for the same, either in the said district court, or in the court of requests; and that an affidavit of the service of such process may be made before any of his majesty's justices of the peace other than the plaintiff himself, in case he shall be one of such justices.

VII. *And be it further enacted by the authority aforesaid*; That the justices of assize and nisi prius, in their circuits in each and every district of this province, shall be, and they are hereby authorized and empowered to act as visitors of the said district courts, and also of the several courts of request within the said districts, in like manner as is now done by his majesty's court of king's bench.

52

21056

C. H. A. P. VII.

An ACT for the more easy Barring of Dower.

FOR the more easy barring of dower; Be it enacted by the king's most excellent majesty, by and with the advice and consent of the legislative council and assembly of the province of Upper-Canada, constituted and assembled by virtue of, and under the authority of an act passed in the parliament of Great-Britain, entitled "An act to repeal certain parts of an act passed in the fourteenth year of his majesty's reign, entitled, "An act for making more effectual provision for the government of the province of Quebec in North America, and to make further provision for the government of the said province," and by the authority of the same, That it shall and may be lawful to and for any person entitled to dower, by any deed executed either alone or jointly with other persons, to release all her right and title to dower in the lands, tenements or hereditaments therein mentioned and described; and such release shall be as valid and effectual to bar the person executing the same of dower in such lands, tenements and hereditaments, and every part thereof, as if a fine had been levied thereof, any law or usage to the contrary notwithstanding.

Preamble.

Persons entitled to dower, by deed, jointly or alone, may release their right, & such release to be an effectual bar.

II. *Provided nevertheless*, That no such release so executed as aforesaid, shall have any force or effect to bar the person so entitled to dower, and executing the same, unless such person shall come before his majesty's chief justice of this province, or one of the justices of the court of king's bench, or shall appear at some general quarter-sessions of the peace for the district, county or place in which she shall reside, and shall have been examined by such chief justice, or justice, or by the chairman or presiding magistrate of such quarter-sessions, when not less than three magistrates besides himself shall be present, touching her consent to be barred of dower in the premises in the said deed or writing mentioned; and in case she shall give her consent thereto, and it shall appear to the said chief justice, or justice, or to the said court, that such consent is free and voluntary; and not the effect of any coercion on the part of her husband, or any other person, it shall and may be lawful to and for the said chief justice; or justice, or to the said chairman, or other presiding magistrate; and they are, and each of them respectively, is hereby required to certify the same by indorsement on the said deed, which certificate, in the case of the said court of quarter-sessions, may be in the following

provided such persons come before &c and consent thereto, which shall be certified.

F O R M :---

AT a general quarter-sessions for the district of _____ held at _____ in the county of _____
 on the _____ day of _____ personally appeared the within named
 A. B. and being openly examined in the presence of L M, C D, E F, and G H,
 (at least four) esquires, his majesty's justices of the peace in and for the said district, touching her consent
 thereto, and did appear to this court to give the same freely and voluntarily, without any coercion on
 the part of her husband, or any other person. S. M. Chairman.

Form of certificate.

Clerk's fees. AND the clerk of the peace shall be entitled to receive the sum of five shillings, and no more, for the said certificate.

Certificate to be enregistered. III. *Provided nevertheless,* That nothing in this act contained shall be taken to bar any person of dower, unless the said certificate shall within six months after the making of the same, be duly enregistered according to the provisions of an act passed in the thirty-fifth year of his majesty's reign, entitled "An act for the public registering of deeds, conveyances, wills, and other incumbrances, which shall be made, or may effect any lands, tenements, or hereditaments within this province."

W. S. J.
C H A P. VIII.

An ACT to supply the want of Enrollment of Deeds of Bargain and Sale.

Preamble.

Deeds of sale to lands sold, or to be sold, that have been, or hereafter shall be enregistered agreeably to the act of 35th of Geo. 3^d declared valid.

WHEREAS in certain cases, lands have been intended to have been conveyed by deed of bargain and sale; and whereas such deeds of bargain and sale not having been enrolled in a court of record, are not valid in law; in order therefore to prevent the injury that might hence arise to his majesty's subjects in this province, and for the better regulating the conveyance of land in future; Be it enacted by the king's most excellent majesty, by and with the advice and consent of the legislative council and assembly of the province of Upper-Canada, constituted and assembled by virtue of, and under the authority of an act passed in the parliament of Great-Britain, entitled "An act to repeal certain parts of an act passed in the fourteenth year of his majesty's reign, entitled, "An act for making more effectual provision for the government of the province of Quebec in North America, and to make further provision for the government of the said province," and by the authority of the same, That wherever any lands have been sold, or shall hereafter be sold under deed of bargain and sale, and such deed of bargain and sale hath been, or shall hereafter be duly enregistered in the register office of the county in which such lands are situate, agreeably to the provisions of an act passed in the thirty-fifth year of his majesty's reign, entitled, "An act for the public registering of deeds, conveyances, wills and other incumbrances which shall be made, or may effect any lands, tenements, or hereditaments within this province," the same shall be, and is hereby declared to be a good and valid conveyance in law.

~~2058~~

52

C. H. A. P. - IX.

An ACT to enlarge the time between the issuing, and the opening of Commissions of Assize and Nisi Prius, in and for the Home district, and for altering the time of holding the sittings for the said district.

WHEREAS by the nineteenth clause of a certain act passed in the thirty-fourth year of his Majesty's reign, entitled " An act to establish a superior court of civil and criminal jurisdiction, and to regulate the court of appeal," all suits and actions that arise, and are triable within the Home district, are directed to be tried within term time, or within ten days next after the end of every Easter and Trinity term, respectively; and whereas it is expedient to enlarge the times of issuing and opening the respective commissions for the hearing and trying of such suits and actions, and to alter the time of holding the sittings for the said district; Be it therefore enacted by the King's most excellent majesty, by and with the advice and consent of the legislative council and assembly of the province of Upper Canada, constituted and assembled by virtue of, and under the authority of an act passed in the parliament of Great-Britain, entitled " An act to repeal certain parts of an act passed in the fourteenth year of his Majesty's reign, entitled, " An act for making more effectual provision for the government of the province of Quebec in North America, and to make further provision for the government of the said province," and by the authority of the same, That all commissions of assize and nisi prius shall be issued after the terms of Hilary and Trinity, respectively, and shall be tested on the last day of each of those terms; and the chief justice, or any other judge of the said court in his absence; shall, as judge of assize and nisi prius, issue his precept to the sheriff of the said district, for the summoning of jurors for the trying of all such issues as may be joined in the said court, and arise and be triable in the said district, as by law he is authorized to do, so that the same may be in no instance holden sooner than eight days from the end of Hilary and Trinity terms respectively.

54 21-57

C H A P. X.

An ACT for the Regulation o' Ferries.

Preamble

WHEREAS it is necessary for the convenience of his Majesty's subjects that ferries should be put under proper regulations within this province, Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the legislative council and assembly of the province of Upper-Canada, constituted and assembled by virtue of, and under the authority of an act passed in the parliament of Great-Britain, entitled "An act to repeal certain parts of an act passed in the fourteenth year of his Majesty's reign, entitled "An act for making more effectual provision for the government of the province of Quebec in North America, and to make further provision for the government of the said province," and by the authority of the same, That from and after the passing of this act, it shall and may be lawful for his Majesty's justices of the peace, in and for the several districts of this province, in their general quarter-sessions assembled, and they are hereby authorized and empowered, from time to time, to make and ordain such rules and regulations as to them, or to the greater part of them, may appear necessary and proper to be observed and followed at such ferry or ferries by the person or persons attending the same, or having the charge thereof; and also to establish and assess such rates and fees as the person or persons attending such ferry or ferries shall and may demand and receive for the passage of persons, cattle, carriages, or wares thereat; a list or table of which rules and regulations, rates and fees shall be set up in some conspicuous place at every such ferry or ferries for public inspection; and any person attending, or having charge of a ferry, who shall be convicted before any one justice of the peace, of demanding or receiving any higher or greater rate or fee than such as shall be so established, assessed and allowed, or of any breach of any such rules and regulations so made and ordained as aforesaid, shall for every such offence forfeit and pay the sum of twenty shillings, to be recovered before any one justice of the peace, and levied by distress and sale of the offender's goods and chattels; one half of which penalty shall be paid to the informer or informers, and the other half to the treasurer of the district wherein the same may arise, to be applied to the public use of the

Quarter sessions to ordain rules and regulations,

and to assess the rates.

Table of regulations & fees to be posted up at the ferry.

Penalty for a ferryman convicted of a breach.

Penalty how to be recovered and disposed of

56

2262
C H A P. XI.

An ACT to encrease the Revenue, and to compel the accounting more regularly for the same, to the Treasurer of the province.

MOST GRACIOUS SOVEREIGN!

Address.

WHEREAS the provisions contained in a certain act of the parliament of this province, passed in the thirty-third year of your Majesty's reign, entitled, "An act to establish a further fund for the payment of the salaries of the officers of the legislative council and house of assembly, and for defraying the contingent expences thereof;" in so far as the same did extend to persons retailing spirituous liquors, or wines, in less quantities than three gallons, but not keeping a house of public entertainment, are expired: we your Majesty's most dutiful and loyal subjects, the representatives of the people of the province of Upper-Canada, in parliament assembled, do most humbly beseech your Majesty that it may be enacted, and Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the legislative council and assembly of the province of Upper-Canada, constituted and assembled by virtue of, and under the authority of an act passed in the parliament of Great-Britain, entitled "An act to repeal certain parts of an act passed in the fourteenth year of his Majesty's reign, entitled "An act for making more effectual provision for the government of the province of Quebec in North America, and to make further provision for the government of the said province," and by the authority of the same, That from and after the fifth day of August in this present year, and from and after the fifth day of April in every year ensuing, every shop-keeper, or other person whatsoever, who shall sell or vend any wine, brandy, rum or other spirituous liquor, in less quantity at any one time than three gallons, shall be possessed of a license for that purpose, whether he, or she does keep a house of public entertainment, or does not; which license it shall and may be lawful for the governor, lieutenant-governor, or person administering the government, by or through the secretary of the province, or other person or persons whom he shall authorize to issue the same, to grant upon payment of the like rates, duties and fees, as by law are now paid by any person licensed to keep a house of public entertainment, for his or her license so to do: such rates and duties to be collected, paid and applied in like manner and form, and to the same uses as by the hereinbefore recited act of the parliament of this province is directed; and if any person shall at any time after the time or times respectively herein specified and limited, sell or vend any wine, rum, brandy or other spirituous liquor, in less quantity than three gallons, not being possessed as aforesaid, of a license for that purpose, and shall be thereof convicted in manner and form set forth by a certain act of the parliament of this province, entitled "An act for regulating the manner of licensing public houses, and for the more easy convicting of persons selling spirituous liquors without license." he or she shall forfeit and pay the sum of twenty pounds; a moiety whereof shall be paid to the informer, and the other moiety shall be paid into the hands

After &c. and annually, no person to sell less than 3 gallons without license.

Governor, to grant license.

Rates and duties how collected, &c.

Penalty for selling without license.

Penalty, how to be applied.

of his majesty's receiver-general, to and for the use of his Majesty, his heirs and successors; and towards the support of the government of this province, to be accounted for to his majesty through the commissioners of his Majesty's treasury for the time being, in such manner and form as it shall please his majesty to direct.

Secretary to
compel agents
to account
without delay.

II. AND whereas unnecessary delay in accounting to the provincial treasurer, for the revenue may be detrimental to the same, Be it therefore enacted by the authority aforesaid, That the secretary of the province, shall use efficient means of compelling all persons employed by, or under him, as his agents or deputies, in receiving and collecting the duties imposed by virtue of this act, or by virtue of any other act or acts of the parliament of this province, to transmit to him, from time to time, without delay, all such monies as they shall so receive and collect; and that the said secretary of the province, shall pay into the hands of the said provincial treasurer, all monies which he shall from time to time so receive, or otherwise collect as duties imposed by this act, or by any other act or acts of the parliament of this province, within one calendar month after he shall have received or collected the same, any act, law or usage to the contrary notwithstanding.

Secretary to
account to the
treasurer with-
in one month.

57

revised

C H A P. XII.

An ACT to authorize the Lieutenant-Governor to nominate and appoint certain Commissioners for the purposes therein mentioned.

WHEREAS from the local situation of this province it appears to be altogether impracticable to carry into effect that part of the provincial agreement entered into at Montreal, the twenty-eighth day of January last, between the commissioners in behalf of this province, and the commissioners of the province of Lower-Canada, which relates to the imposing of duties on articles coming into this province from the United States of America, and to the taking of measures for enforcing the collection of such duties; and from this circumstance the agreement so entered into as aforesaid may become void and of no effect; and whereas it is expedient that arrangements should take place between this province and the province of Lower Canada, respecting the imposing of duties, and allowing of drawbacks on goods passing from one province into the other, and of and concerning any regulations, provisions, matters and things which might regard the commerce, manufactures or produce of the said province, Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the legislative council and assembly of the province of Upper-Canada, constituted and assembled by virtue of, and under the authority of an act passed in the parliament of Great-Britain, entitled "An act to repeal certain parts of an act passed in the fourteenth year of his Majesty's reign, entitled, "An act for making more effectual provision for the government of the province of Quebec in North America, and to make further provision for the government of the said province," and by the authority of the same, That it shall and may be lawful for the governor, lieutenant-governor, or person administering his Majesty's government in this province, from time to time by letters patent, under the great seal of the province, to commission, authorize, and empower three able and discreet persons, two of whom shall be a quorum, to treat, consult, and agree with the persons to be duly authorized for that purpose by a power to be granted by an act of the legislature of his Majesty's province of Lower-Canada, of and concerning the establishing such regulations as may regard the collection of duties, or payment of drawbacks, to be imposed or allowed on goods passing from one province into the other, by the legislature of each province respectively; and of and concerning any proportions to be received and paid of any equal duties already imposed, or hereafter to be imposed, by the said legislatures respectively, on any article or commodity passing from one province into the other; and of and concerning any regulations, provisions, matters and things which may regard the commerce, manufactures or produce of the said province.

Preamble.

Governor to appoint three commissioners.

II. *Provided always, and be it enacted and declared,* That no regulation, provision, matter or thing so proposed, treated, consulted, or agreed, shall have any other force or effect, or be carried any further into execution until the same shall have been confirmed by the legislature of this province.

Their agreement invalid until confirmed by the legislature.

55

C. H. A. P. XIII.

An ACT for the better regulating the Practice of the Law.

Preamble.

BE it enacted by the King's most excellent Majesty, by and with the advice and consent of the legislative council and assembly of the province of Upper-Canada, constituted and assembled by virtue of, and under the authority of an act passed in the parliament of Great-Britain, entitled "an act to repeal certain parts of an act passed in the fourteenth year of his Majesty's reign, entitled "An act for making more effectual provision for the government of the province of Quebec in North-America, and to make further provision for the government of the said province," and by the authority of the same, That from and after the passing of this act, it shall and may be lawful for the persons now admitted to practise in the law, and practising at the bar of any of his Majesty's courts of this province, to form themselves into a society, to be called the *Law Society of Upper-Canada*, as well for the establishing of order amongst themselves as for the purpose of securing to the province and the profession a learned and honorable body, to assist their fellow subjects as occasion may require, and to support and maintain the constitution of the said province.

Present practitioners incorporated into a law society.

The society to form rules.

II. *And be it further enacted by the authority aforesaid*, That the said society shall, and is hereby authorized to form a body of rules and regulations for its own government, under the inspection of the judges of the province for the time being, as visitors of the said society, and to appoint the six senior members, or more, of the present practitioners, and the six senior members, or more, for the time being, in all times to come (whereof his Majesty's attorney-general, and solicitor-general for the time being, shall be, and be considered to be two) as governors or benchers of the said society, and also to appoint a librarian and a treasurer.

Place and time for the first meeting for adopting rules.

III. *And be it further enacted*, That it shall and may be lawful for the said practitioners, or as many as can be called together (whereof his Majesty's attorney-general, and solicitor-general (shall be two) to assemble at the town of Newark in the county of Lincoln on the seventeenth day of July next ensuing the passing of this act, for the purpose of framing and adopting such rules and regulations as may be necessary for the immediate establishment of the said society, and its future welfare; and such rules and regulations as shall then and there be adopted, shall be openly read and entered in a book to be for that purpose provided, and having received the approbation of the said judges as visitors as aforesaid, shall be, and be considered to be the constitution of the said society, and binding upon all its members.—*Provided always*, That it shall and may be lawful in time to come, to add such other rules and regulations, with the approbation of the judges as aforesaid, as may then and there be necessary,

Present practitioners may take one pupil.

IV. *And be it further enacted*, That it shall and may be lawful to, and for any person now practising at the bar of any of his Majesty's courts, to take one pupil or clerk, for the purpose of instructing him in the knowledge of the laws, any law or ordinance to the contrary notwithstanding.

V. *And be it further enacted*, That no person other than the present practitioners, and those hereafter mentioned, shall be permitted to practise at the bar of any of his Majesty's courts in this province, unless such person shall have been previously entered of, and admitted into the said society as a student of the laws, and shall have been standing in the books of the said society, for and during the space of five years, and shall have conformed himself to the rules and regulations of the said society, and shall have been duly called, and admitted to the practice of the law as a barrister, according to the constitutions and establishment thereof. *Provided always*, That it shall and may be lawful for any person having been duly admitted to practise at the bar of any of his Majesty's courts in England, Scotland, or Ireland or of any of his Majesty's provinces in North America, on producing sufficient evidence thereof, and also on producing testimonials of good character and conduct to the satisfaction of the judges of the King's bench, to be admitted to practise in this province, so as such person shall within one month from such admission, enter himself of the said society, and conform to all the rules and regulations thereof. *Provided also*, That nothing herein before contained shall affect; or be construed to affect any person who shall, or may have been articled as a clerk before the passing of this act, with any person practising at the bar in any of the courts of this province, authorized to take a clerk or clerks, and duly acting as a clerk accordingly; but the time which such person shall have spent as such clerk shall be considered and taken to be, pro tanto, as a standing in the books of the said society, and as a reasonable and lawful deduction of so much of the said term of five years, so that such person shall likewise conform to the rules and regulations of the said society, in all matters and things thereunto appertaining.

None but members of the society to practise except, &c.

Provision in favor of clerks articled before the passing of this act.

VI. *And be it further enacted by the authority aforesaid*, That nothing in this act contained, shall prevent any person who hath been regularly articled with any person in this province, duly authorized to take a clerk, and shall have been standing in the books of the society aforesaid, for and during the space of three years, from acting merely as an attorney or solicitor in any of his Majesty's courts of law or equity in this province.

Further provision.

VII. *Provided nevertheless, and be it further enacted*, That no person shall be admitted to practise in this province, who shall not at the time of such admission have attained the full age of twenty-one years.

No person but of full age admitted to practise.

VIII. *And be it further enacted by the authority aforesaid*; That a certain ordinance of the province of Quebec, passed in the twenty-fifth year of his Majesty's reign, entitled "An ordinance concerning advocates, attornies, solicitors and notaries, and for the more easy collection of his Majesty's revenues," as far as it may relate to barristers, advocates, attornies or solicitors, be, and the same is hereby repealed.

Ordinance of Quebec repealed.

1063

C H A P. XIV.

An ACT to obviate the Objections that might arise from a clerical Error in some of his Majesty's Letters Patent of Grant lately issued.

Preamble **W**HEREAS it appears that a clerical error hath crept into a few of the deeds given by our sovereign lord the King to some of his subjects, by the insertion of the word "clergyman" instead of the word "clergy" in that part of the letters patent that reserves a proportion of one seventh of the crown lands, for the lands in each of the deeds granted, which error might lead to consequences that it is necessary to obviate, Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the legislative council and assembly of the province of Upper-Canada, constituted and assembled by virtue of, and under the authority of an act passed in the parliament of Great-Britain, entitled "An act to repeal certain parts of an act passed in the fourteenth year of his Majesty's reign, entitled "An act for making more effectual provision for the government of the province of Quebec in North America, and to make further provision for the government of the said province," and by the authority of the same, That wherever the word "clergyman" shall or may occur in any one of his Majesty's letters patent, the same shall be read, taken and understood to be, mean and signify "clergy," and shall have to all intents and purposes the same force and effect, tendency and operation towards establishing, securing and confirming the rights of the protestant clergy of this province, in such a quantity of the lands of the crown as shall and may amount to, and be in the proportion of one to seven of the lands in any such deed granted, according to the form and effect of an act passed in the parliament of Great-Britain, in the thirty-first year of his Majesty's reign, entitled "An act to repeal certain parts of an act passed in the fourteenth year of his Majesty's reign, entitled "An act for making more effectual provision for the government of the province of Quebec in North America, and to make further provision for the government of the said province," and that every such deed shall be to all intents and purposes as valid and effectual in securing to the subject the lands thereby granted, and to his Majesty all the rights, conditions, reservations, limitations and restrictions, and to the said clergy the rights aforesaid, as if no such clerical error had crept into it; but as if such deed had been perfected in the word "clergy," where the rights of the church are intended to be secured, instead of the word "clergyman" wherever it occurs; any act, ordinance or law to the contrary in any wise notwithstanding.

The word clergy shall be intended to be meant by the word clergyman in certain deeds of grant

Such deeds to be valid in securing the rights of the crown, of the clergy, and of the subject respectively.

60

C H A P. XV.

An ACT to authorize the apprehending of Felons, and others, escaping from any of his Majesty's provinces and governments in North-America, into this province.

WHEREAS it may happen that felons, and other malefactors, having committed crimes in some of his Majesty's provinces and governments in North-America, may escape into this province, and their offences thereby remain unpunished for want of provision by law for apprehending such offenders in this province, and transmitting them into the province in which their offences were committed: for remedy thereof, Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the legislative council and assembly of the province of Upper-Canada, constituted and assembled by virtue of, and under the authority of an act passed in the parliament of Great-Britain, entitled "An act to repeal certain parts of an act passed in the fourteenth year of his Majesty's reign, entitled "An act for making more effectual provision for the government of the province of Quebec in North America, and to make further provision for the government of the said province," and by the authority of the same, That from and after the passing of this, if any person or persons against whom a warrant shall be issued by the chief justice of the King's bench, or any other magistrate having competent authority in any of his Majesty's provinces or governments in North America, respectively, for any felony or other crime of a high nature, shall escape, come into, reside or be in any part of this province, it shall and may be lawful for any justice of the peace of the district, county, city or place where such person or persons shall escape, come into, reside or be, to indorse his name on the said warrant (due proof being first made of the hand writing of the magistrate issuing the same) which warrant so indorsed shall be a sufficient authority to all persons to whom such warrant was originally directed, and also to all constables of the district, county, city, or place where such warrant shall be so indorsed, to execute the same, by apprehending the person or persons against whom such warrant is granted, and to convey him, her or them into the province from which such warrant originally was issued, to be dealt with according to law.

Preamble.

Warrants issued within his Majesty's other governments in North America against felons escaping there from may be executed within this province being duly indorsed

II. *Provided nevertheless, and be it further enacted by the authority aforesaid,* That before any such warrant shall be so indorsed as aforesaid; the person applying for such indorsement shall enter into a recognizance with sufficient sureties for a sum not less than fifty pounds lawful money of this province, to indemnify this province, and every part thereof, against any expence that may arise or accrue from the apprehension of such offender, and also to bring, or cause the said offender to be brought to trial; and the magistrate to whom such application shall be made is hereby authorized to take such recognizance.

Security being previously given to indemnify the province against any expence, and to bring the offender to apprehended to trial.

62 No 65

C H A P. XVI.

An ACT for making temporary provision for the Regulation of Trade between this province and the United States of America by land or by inland navigation.

Preamble.

WHEREAS it may be necessary for the complete operation of the treaty of amity, commerce and navigation, concluded between his Majesty and the United States of America, and signed at London, in the year of our Lord one thousand seven hundred and ninety-four, to repeal such acts or ordinances as might be construed to impede the free intercourse between his Majesty's subjects and the citizens of the United States, stipulated by the said treaty, Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the legislative council and assembly of the province of Upper-Canada, constituted and assembled by virtue of, and under the authority of an act passed in the parliament of Great-Britain, entitled "An act to repeal certain parts of an act passed in the fourteenth year of his Majesty's reign, entitled, "An act for making more effectual provision for the government of the province of Quebec in North America, and to make further provision for the government of the said province," and by the authority of the same, That from and after the passing of this act, it shall and may be lawful for the governor, lieutenant-governor or person administering the government of this province, by and with the advice and consent of his Majesty's executive council, by order or orders, to be from time to time issued and published to suspend the operation of the whole, or any part or parts of any act, or acts, or ordinance, or ordinances that may impede, or may be construed to impede the free intercourse stipulated by the said treaty between his Majesty's subjects, and the citizens of the United States.

Power of suspending any act or ordinance, or parts thereof repugnant to the free intercourse with the U. S. of America established by the treaty of 1794.

II. *And be it further enacted by the authority aforesaid, That this act shall continue, and be in force two years and no longer.*

62 No 66

C H A P. XVI.

An ACT for the better Division of the County of Prince-Edward into Townships.

Preamble.

WHEREAS the inhabitants of the townships, of Marysburg and Sophiasburg, in the county of Prince-Edward experience many difficulties from the uncommon length of the said townships. Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the legislative council and assembly of the province of Upper-Canada, constituted and assembled by virtue of, and under the authority of an act passed in the parliament of Great-Britain, entitled "An act to repeal certain parts of an act passed

174
W. J. H. P.

PASSED IN THE FIRST SESSION OF THE SECOND PARLIAMENT.

the fourteenth year of his Majesty's reign, entitled " An act for making more effectual provision for the government of the province of Quebec in North-America, and to make further provision for the government of the said province," and by the authority of the same, That a township shall be struck off from the southernmost parts of the townships of Marysburg and Sophiasburg, in form following:—To commence in Marysburg in the limit between the lots numbers eleven and twelve, south side of the Bay of Quinty, to the eastward of a small bay which leads to the carrying place, to the East-Lake; then along the said limit, south ten degrees west, the depth of three concessions, more or less, until it intersects the limit between lots numbers twelve and thirteen in the second concession, north of Black-River; and then along the limit between the said lots numbers twelve and thirteen, south thirty-two degrees east, to the rear of the first concession from Black-River; then south fifty-eight degrees west along the line between the first and second concessions, passing lot number thirty-two to a small creek which empties itself into the East-Lake; then south thirty-two degrees east to lake Ontario; then westerly along the shore of the said lake to the mouth of the West-Lake; thence by the nearest line to the limit between lot number one in Ameliaburg, and lot number one in Sophiasburg; then north twenty degrees west, the depth of two concessions; then north seventy degrees east to the north east angle of lot number sixteen in the second concession, nearly; then north fifty-eight and one half degrees east to the north east angle of a lot numbered thirty-nine, in the third concession; then south thirty-one and one half degrees east to the rear of the second concession; then a small distance by the most direct line to the northernmost angle of lot number ten in the second concession; then along the limit between the lots numbers ten and eleven south sixty-one degrees east to the small bay first mentioned, then following the shores of the said bay, and the Bay of Quinty, according to its different windings and courses to the place of beginning, which township shall be under the same regulations and entitled to the same privileges as any other township in this province.

The southernmost parts of Marysburg & Sophiasburg to be formed into a distinct township.

Boundary lines thereof.

Regulations & privileges.

II. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the lieutenant-governor, or person administering the government of this province, on or before the first day of August next, by a proclamation, to declare the name of such township.

By whom the name of such township shall be declared.

III. *Provided always, and it is hereby further enacted,* That such alteration of the said townships shall not impeach, or be construed to impeach the legality of any existing commission granted for the exercise of any authority or jurisdiction within the said townships, or any of them, or to make void or otherwise affect any grant of land, or other legal proceeding within the limits of said townships, any law or usage to the contrary notwithstanding.

Such alteration in nowise to affect any existing commission, legal proceeding, or grant of land.



C H A P. XVII.

An ACT to extend the provisions of an act passed in the second Session of the first Provincial Parliament of Upper Canada, entitled "An Act to confirm and make valid certain Marriages, heretofore contracted in the Country now comprized within the province of Upper Canada, and to provide for the future Solemnization of Marriage within the same."

I. WHEREAS it hath been found expedient to extend the provisions of a certain act passed in thirty-third year of his Majesty's reign, entitled "An act to confirm and make valid certain marriages heretofore contracted in the country now comprized within the province of Upper Canada, and to provide for the future solemnization of marriage within the same," Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the province of Upper Canada, constituted and assembled by virtue of, and under the authority of an act passed in the Parliament of Great Britain, entitled an act to repeal certain parts of an act passed in the fourteenth year of his Majesty's reign, entitled "An act for making more effectual provision for the government of the province of Quebec in North America, and to make further provision for the government of the said province," and by the authority of the same, That from and after the passing of this act, it shall and may be lawful to, and for the minister or clergyman of any congregation or religious community of persons, professing to be members of the Church of Scotland, or Lutherans, or Calvinists, who shall be authorized in manner hereafter directed, to celebrate the ceremony of Matrimony, according to the rites of such church or religious community, between any two persons, neither of whom are under any legal disqualification to contract matrimony, and one of whom shall have been a member of such congregation or religious community, at least six months before the said marriage, any law or usage to the contrary notwithstanding.

II. Provided nevertheless, and be it enacted by the authority aforesaid, That no person shall be taken, or deemed to be a minister or clergyman of any such congregation or religious community, within the intent and meaning of this act, who shall not have been regularly ordained, constituted, or appointed, according to the rites and forms of such congregation or religious community, and unless he shall have appeared, or come before the justices of the peace assembled in quarter-sessions, in the district in which he shall reside, when not less than six magistrates besides the chairman, shall be present, and shall have then with him at least seven respectable persons, members of the congregation or religious community to which

he belongs, who shall declare him to be their minister or clergyman; and unless he shall produce proofs of his ordination, constitution, or appointment to that office, and unless he shall then and there take the Oath of Allegiance to his Majesty; when, if it shall appear to the majority of the justices then present, expedient and proper, they are hereby authorized to grant him a certificate under the Seal of the Court, and signed by the Chairman and Clerk of the Peace, (for which the said Clerk of the Peace shall be entitled to demand and receive the sum of five shillings) certifying him to be the settled minister or clergyman of such congregation or religious community; which certificate shall be in the following form:—

BE IT REMEMBERED, that at the General Quarter Sessions of the Peace, holden at the Town of _____ in the County of _____ in and for the _____ District, on the _____ day of _____ in the _____ year of our Lord, before A. B. (and six others) Esquire, and others, Justices of our Sovereign Lord the King, assigned to keep the Peace in the said District, &c. came C. D. of _____ together with E. F. of _____ (and six others, whose names and descriptions must be inserted) members of a (Congregation) or (Community) of _____ at _____ in the County of _____ in the said District. And the said E. F. &c. being duly examined, satisfied the Court that the said C. D. is the settled (Minister) or (Clergyman) (of the said Congregation) or (Community) and was regularly ordained, constituted, and appointed thereto.

G. H. Chairman.

J. K. Clerk of the Peace.

III. *Provided nevertheless*, That no such certificate shall be given by the said court of quarter-sessions as aforesaid, unless the person applying for the same shall have given notice in writing, to the clerk of the peace, at, or before the general quarter sessions immediately preceding that on which he shall apply for such certificate; which notice in writing, the said clerk of the peace shall read in open court, and shall also fix up in some conspicuous part of his office, within eight days after the same shall have been so read; for which service he, the said clerk of the peace, shall be entitled to demand and receive the sum of five shillings and no more.

IV. *Provided also; and be it further enacted by the authority aforesaid*, That no such minister or clergyman shall, at any time, celebrate the ceremony of Matrimony between any two persons as above described, unless he shall on three several Sundays before he shall celebrate the said ceremony, openly, and with a loud voice in the church, chapel, meeting-house, or other place of worship of such congregation or religious community, either in some intermediate part of the service, or immediately before it begins, or immediately after it is ended, declare his intention so to do; and shall at each time of making such declaration, also declare

the number of times for which he shall have made such declaration respectively; or unless such minister or clergyman, shall have been duly authorized by licence, under the hand and seal of the Governor, Lieutenant-Governor, or person administering the government of the province, to celebrate the said ceremony between the two persons therein named.

V. *And be it further enacted by the authority aforesaid,* That it shall, and may be lawful to, and for the parties thus married, or either of them, to demand of the said minister, or clergyman, and he is hereby authorized and required to give the same a certificate of such marriage, which may be in the following form, viz.

WHEREAS A. B. of _____ and C. D. of _____ were desirous of intermarrying with each other, and have applied to me for that purpose, their intention so to do having been regularly proclaimed on three several Sundays, as is directed, or having presented a licence, (as the case may be.) Now these are to certify, that I, E. F. minister of the community of _____ at _____ have this day married the said A. B. and C. D. together, and they are become legally contracted to each other. As witness my hand at this _____ day of _____ in the year of our Lord

In presence of

G. H.

J. K.

Which certificate shall, and may be registered by the clerk of the peace, in like manner as is directed in the aforesaid act, passed in the thirty-third year of his Majesty's reign, entitled, "An act to confirm and make valid certain marriages heretofore contracted in the country now comprized within the province of Upper Canada, and to provide for the future solemnization of marriage within the same."

VI. *And be it further enacted by the authority aforesaid,* That all marriages which may have been celebrated since the passing of the said act of the thirty-third year of his Majesty's reign, by any person who shall obtain such certificate as aforesaid, between any two persons, either of whom now is, or then was, a member of any of the said congregations or communities above named, shall be deemed good and valid, any law to the contrary notwithstanding.

(The Royal Assent to this Bill, was signified by Proclamation, on the twenty-ninth day of December, in the thirty-ninth year of his Majesty's Reign, and in the year of our Lord one thousand seven hundred and eighty-eight.)